S. HRG. 98-1086

COASTAL MIGRATORY FISH CONSERVATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON
ENVIRONMENTAL POLLUTION

OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 2667

A BILL TO AMEND THE ANADROMOUS FISH CONSERVATION ACT, TO INCREASE THE AUTHORIZATION FOR APPROPRIATIONS TO IMPLEMENT EMERGENCY MEASURES FOR THE PROTECTION OF ATLANTIC STRIPED BASS, TO PROVIDE FOR THE CONSERVATION AND MANAGEMENT OF COASTAL MIGRATORY FISH, AND FOR OTHER PURPOSES

SEPTEMBER 19, 1984

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COASTAL MIGRATORY FISH CONSERVATION ACT

WEDNESDAY, SEPTEMBER 19, 1984

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION,
Washington, DC.

The subcommittee met, at 2:03 p.m., in room SD-406, Dirksen Senate Office Building, Hon. John H. Chafee (chairman of the subcommittee) presiding.

Present: Senators Chafee and Symms.

CHIMON ISLAND NATIONAL WILDLIFE REFUGE

Senator CHAFEE. I would like to welcome everybody to this hearing this afternoon before the Subcommittee on Environmental Pollution. Before we go to the striped bass issue, there is another matter; namely, S. 2668 and H.R. 5464, bills to establish Chimon Island National Wildlife Refuge in Connecticut. The chief sponsors of the legislation are Senator Weicker and Representative McKinney, who have expressed a desire to testify.

Senator Weicker is not here yet, to my knowledge. As soon as he comes in, we will put him on. Representative McKinney is here. We are delighted to have you, Mr. McKinney.

STATEMENT OF HON. STUART McKINNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MCKINNEY. Thank you, Mr. Chairman. I really appreciate it. The legislation, S. 2668, would establish the Chimon Island National Wildlife Refuge in Connecticut. I would like to stress this bill has the support of the Reagan administration, Governor O'Neill and many State and national environmental organizations. Mr. Chairman, I realize that your panel is under severe time constraints and on behalf of the citizens of Connecticut, I commend your efforts and foresight in bringing this important conservation measure before your subcommittee.

S. 2668 would establish a four-site national wildlife refuge along Connecticut's southwestern coast. Encompassing 145 acres, the refuge would include the islands of Chimon, Sheffield, and Falkner's as well as the 10-acre barrier beach at Milford Point.

This measure would preclude the development of those critical coastal lands by establishing Connecticut's second national wildlife refuge. Creation of the refuge would serve as a great step in the furtherance of wildlife preservation not only in Connecticut, but

also our Nation. The lands to be protected are of national significance and clearly warrant inclusion in the Federal system.

Chimon Island, Connecticut's most important heron nesting ground, is located less than one mile off Calf Pasture Point in Norwalk Harbor. Norwalk, a city of nearly 80,000, lies along Connecticut's southwestern coast within the most heavily populated, urbanized area of the Northeastern United States—the New York metropolitan area.

Ironically, though, within its relative isolation this 70-acre island supports one of the three largest wading bird colonies on the northeast coast. In fact, in some years, Chimon is the largest breeding colony in the Northeast. Experts agree that at least eight species of shore birds nest on the island.

Likewise, 60-acre Sheffield Island, the second largest island in the Norwalk chain, offers excellent potential for nesting habitat and could provide vital overflow land for the expanding Chimon Island heron population. According to the Connecticut Audubon Society, Sheffield is home to American oystercatchers and double-crested cormorants, neither of which nests in more than one other place in Connecticut.

Falkner's Island, presently owned by the U.S. Coast Guard, supports Connecticut's only significant population of State-threatened roseate terns, as well as our State's only major population of State-threatened common terns. Both species not only are threatened in Connecticut, but also in the whole of North America.

And finally, Milford Point is one of the few remaining nesting sites of the piping plover, a candidate for the Federal threatened species list. Experts claim that the current U.S. population of the piping plover is between 1,500 and 2,000 breeding pairs. Connecticut is reported to have 17 such pairs. Milford Point claims 5 of the 17. The 10-acre barrier beach also is home to the largest population of State-threatened least terns, and also, I might add, the biggest feeding ground for all of these birds.

The urgent nature of this legislation is highlighted by ongoing attempts to purchase these sites for coastal development projects. With land values in southwestern Connecticut among the highest in the country, and with a paucity of undeveloped coastal land within a reasonable proximity to New York City, there is imminent danger that these lands will be lost for future generations. Serious development offers have been made for Chimon, Sheffield, and Milford Point, offers that, if accepted, would level an irreversible blow to the habitat of the Northeast's shore birds. Unless action is taken soon, this critical coastal habitat will be lost forever.

Senator Weicker's legislation would establish only the second national wildlife refuge in Connecticut. The Salt Meadow National Wildlife Refuge in Westbrook, CT, currently protects over 185 species of wildlife. Yet, while the refuge totals 183 acres, 177 of them were donated to the Federal system. The other 6 acres were purchased.

Mr. Chairman, I would like to insert a letter to me from the White House. (See p. 41.)

Thank you for allowing me to testify on what I believe is a vital conservation measure and a vital measure to the State of Connecticut.

Senator CHAFEE. Thank you very much. I am a little bit confused now. The Chimon is one, and the Salt Meadow Wildlife Refuge is another in West Brook; am I correct?

Mr. MCKINNEY. Right; absolutely. That one has been with us for quite some time. Actually, it was composed of 177 acres given as a private gift to the Federal Government.

Senator CHAFEE. In other words, we already have that.

Mr. MCKINNEY. Yes, and the Federal Government bought several additional acres of marshland.

Chimon, Sheffield Island, Falkner's Island, which is now owned by the Coast Guard, and Milford Point, which is privately owned.

Senator CHAFEE. All that combined would make what you call the Chimon Island National Wildlife Refuge?

Mr. MCKINNEY. Right. We changed the name in the House to the Connecticut Wildlife Coastal Refuge.

Senator CHAFEE. We appreciate your testimony a great deal, and we are delighted our distinguished colleague, Senator Weicker, is here. Senator, we welcome you and look forward to your testimony.

STATEMENT OF HON. LOWELL WEICKER, JR., U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator WEICKER. Thank you, Mr. Chairman. First, I would like to compliment my colleague, Stuart McKinney, on seeing this project through from beginning to what will hopefully be a happy ending. There is just no question, as far as the Connecticut delegation is concerned, whether the House or the Senate, and he is the one who has done it and deserves full credit.

I would hope the bill could be reported out. I have been assured, I might add, by Interior Appropriations, subject to authorization, that there is a possibility we will get funds in the Appropriations bill. When that is done, I also have the assurance of the President that he would fully back this project.

I received a letter from the White House dated September 17, which I will submit as part of the record. (See p. 44.)

The last paragraph says:

> The Administration would thus support this authorization for inclusion in the national wildlife refuge system and its eventual acquisition.

So I think Stuart has really pulled off a minor miracle in the sense of getting the senior Senator from Connecticut and the administration to agree on something, indeed something that can be very beneficial to the whole State.

I am not going to recite my entire statement. I will have that included in the record. Needless to say, this measure has had my very enthusiastic support. I ask my statement be included in the record.

Senator CHAFEE. We will certainly put your statement in the record. (See p. 42.)

I am intensely interested in these matters. I think the fact, as you note in your statement, 97 percent of Connecticut's coastline has been developed, it seems to me we must step in and save what we can before the balance is gone.

This is a very modest step here, and certainly one we want to move right ahead on. So I want to assure both you gentlemen that

we will do everything we can, and I think we will be able to get this done before we adjourn for the year. I will get it out of here quickly, and I will talk to the chairman of the full committee and see if we can't get it taken care of and get it to the floor rapidly.

That all fits in, as you know, with the barrier beach legislation, which we all worked on together. It is a great step forward.

So I congratulate you both for what you have done and if you spot any other areas up there that you are interested in, don't hesitate to bring them around.

Senator WEICKER. Mr. Chairman, now that you mentioned it, we are interested in Black Island.

Senator CHAFEE. That depends on whether you have got a moped or not. Thank you very much, both, for coming. I appreciate it.

I understand Congressman Ratchford will also be submitting a statement. We will include that in the record as well as a statement from the Fish and Wildlife Service. (See p. 55.)

TRINITY RIVER BASIN, CA

Now we are going to move on to S. 1874, a bill to provide for the restoration of fish and wildlife in the Trinity River Basin in California.

This is a matter that has the support of the entire delegation and the Administration and the Fish and Wildlife Service has submitted a statement for the record. (See p. 62.) There is no oral testimony that anybody is seeking to present; is that correct?

Mr. SHIMBURG. Correct.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Now for the striped bass. Anybody who has been following this knows of my interest and concern as to what is happening to this magnificent resource.

In 1979, we began our emergency study to determine the extent of the striped bass populations and identify the factors responsible for the declining populations.

The first part of the study has been successful. Unfortunately, the success is in the recent reports that confirm the depressing decline in stocks. The second part identifying the cause of the decline is turning out to be more complicated.

Although we may not have a good handle on the cause of the declining stocks, it has become clear to virtually everyone that steps must be taken to save the fish. Steps must be taken now, not next year or the year after. The States' responses to the problem have been slow, inconsistent and, quite frankly, ineffective. I am not convinced we have the luxury of giving the States another chance, another round of promises and inaction.

We hear promises that if given a little more time, the States will adopt the 1981 management plan, but it has been suggested the 1981 plan is seriously out of date and needs to be substantially rewritten; even with an amendment to reduce each States' catch by 55 percent, there is serious doubt as to the effectiveness and ability to enforce the plan.

All of these factors and the recognition that the striped bass management problem is only one example of the problems facing effective interstate management of all migratory fish, led me to introduce S. 2667. In addition to setting up a mechanism for more effective interstate management of all migratory fish, the bill recognizes the plight of the striped bass and would impose an immediate moratorium on fishing for stripers up and down the entire Atlantic coast. That is the heart of the legislation as it pertains to the stripers.

We impose an immediate moratorium on fishing for stripers up and down the entire Atlantic coast; rather than write into law what is an appropriate scientific basis for lifting the moratorium, we allow the moratorium to be lifted on a State-by-State basis as each State adopts and implements an interstate management plan that is developed by the States and approved by the Secretaries of Interior and Commerce.

The professionals know what needs to be done. What they need is the political courage to do it. This bill will make it easier for them to do the right thing. My approach is controversial and steps on some toes. We will hear the States rights and preferences for less comprehensive measures. I invite our witnesses to testify and hope you can convince me the situation is not as bad as it appears.

We will start off with a panel consisting of Mr. Bob Jantzen, Director of the Fish and Wildlife Service; and Mr. William Gordon, Assistant Administrator for Fisheries, National Marine Fisheries Service.

Won't you gentlemen step up to the table? Mr. Jantzen and Mr. Gordon, if you want assistance, have them step right up, also.

Both Senator Kennedy and Senator Mitchell wanted to be here, but they are unable to attend. However, they have submitted statements and we will make sure they are included in the record. (See pp. 78 and 81.)

Gentlemen, why don't you identify who is with you and why don't you proceed, Mr. Jantzen.

STATEMENT OF ROBERT JANTZEN, DIRECTOR, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY GARY EDWARDS, DEPUTY ASSOCIATE DIRECTOR, FISHERIES RESOURCES, FISH AND WILDLIFE SERVICE; AND JAMES WEAVER, ASSISTANT CENTER DIRECTOR, NATIONAL FISHERIES RESEARCH CENTER, FISH AND WILDLIFE SERVICE

Mr. JANTZEN. Thank you, Mr. Chairman. On my right I have Gary Edwards who is the Deputy Associate Director for Fisheries Resources, Fish and Wildlife Service. On my left I have Dr. James Weaver who is Assistant Center Director for the National Fisheries Research Center at Leetown, WV.

Mr. Chairman. I would like to submit my full statement on S. 2667 for the record.

Senator CHAFEE. Fine. (See p. 83.)

Mr. JANTZEN. Also, as you requested, we have submitted written statements on S. 1874 and H.R. 1438, Trinity River, and on the Connecticut Coastal Refuge.

Senator CHAFEE. Basically, did you approve of both of those?

Mr. JANTZEN. Yes, sir. Our testimony supported the Connecticut Coastal Refuge proposition, and also we had some statements in there on Sheffield Island. We are supporting both S. 1874 and H.R. 1438 on Trinity River, with amendments.

In other words, we can support either the Senate or the House version with certain amendments, which we have suggested.

Senator CHAFEE. Fine. Why don't you go ahead.

Mr. JANTZEN. It is my pleasure to be able to appear before this subcommittee to discuss S. 2667, the proposed Coastal Migratory Fish Conservation Act, dealing with interjurisdictional fishery resources that occur primarily in the Territorial Sea of the United States and in contiguous inland waters.

Fundamentally, the bill establishes a systematic process for identifying and then addressing problems impacting coastal migratory fish species.

Your letter, Mr. Chairman, asked that we focus our attention on those provisions of the bill that address striped bass because of the plight of Atlantic coastal migratory stocks of that species.

Under section 112 of your bill, a moratorium on striped bass fishing would be imposed along the entire Atlantic coast upon enactment. This moratorium would be terminated on a State-by-State basis upon implementation of an approved fishery management plan for striped bass developed by the Atlantic States Marine Fisheries Commission.

The other three bills deal only with striped bass. They are also in large measure a response to the third report of the Emergency Striped Bass Study, particularly the key recommendation for immediate, substantial reduction in the harvest of striped bass from North Carolina to Maine.

The first bill, introduced by Mrs. Schneider, would impose an immediate moratorium on striped bass fishing from North Carolina to Maine, and would be in effect for a minimum of 2 years, more particularly 5 years, depending on whether and how quickly Chesapeake Bay stocks rebound.

The approach taken in Congressman Studds' bill, H.R. 5492, and in the bill introduced by Senators Kennedy and Tsongas, S. 2758, would authorize the imposition of a State-by-State moratorium on striped bass fishing. Those moratoria would be imposed based on the Atlantic States Marine Fisheries Commission determination that a State had not developed a program to reduce striped bass harvest according to their plan or if such a plan existed, it was not being implemented.

The Kennedy-Tsongas bill also has a provision prohibiting the interstate sale of striped bass less than 24 inches long. These bills may not result in the imposition of the moratorium for up to a year or more if they were enacted in 1984, even if a State is clearly not in compliance with the commission's plan.

We would not object to the approach taken in H.R. 5492 because it provides the greatest opportunity for the States to resolve the problem and would only require Federal matching where a State fails to adequately address the problem of diminishing populations.

Should the committee consider H.R. 5492 favorably, we recommend the bill include language requiring the Secretary of Com-

merce to consult with the Secretary of the Interior in deciding whether or not to impose a moratorium.

Coastal migratory striped bass stocks have undergone a rapid decline, some would say even a collapse, over the last decade. As you may be aware, the latest Maryland young-of-the-year index indicates this year's striped bass production was extremely poor, even disastrous. This is the fourth such poor showing in the last 5 years.

High fishing mortality has reduced the basic fecundity or reproductive potential of these stocks by removing females before they reach their maximum reproductive potential. In addition, ongoing studies suggest that something in the nursery areas of Chesapeake Bay is causing excessively high, episodic mortality among very young striped bass.

In response to these circumstances, having been documented by the Emergency Striped Bass Study, the States, working under the auspices of the Atlantic States Marine Fisheries Commission, agreed last December to reduce striped bass fishing effort 55 percent beyond that to be achieved under their 1981 Interstate Management Plan for Striped Bass. This reduction is a bare minimum necessary for the recovery of Chesapeake Bay stocks.

In testimony earlier this year, we strongly endorsed the need for at least this minimum reduction in the harvest of striped bass, but preferred that the States work through the ASMFC to achive this reduction if it could be accomplished in a timely fashion.

While it is clear that the States have made substantial progress toward the goal, it is equally clear further State actions are necessary.

Senator CHAFEE. Let me just ask you on that particular point, you say, "while it is clear the States made substantial progress toward the goal," what have they done?

Mr. JANTZEN. Through the Atlantic Marine Fisheries Commission, Mr. Chairman, they have taken independent action that taken collectively had the goal of achieving a 55-percent reduction in fishing effort on striped bass.

Senator CHAFEE. I am familiar with my own State which banned it completely. It seems to me what the various States do is very haphazard.

Was it Massachusetts the other day that imposed a total moratorium? Who is that? Maryland.

Mr. JANTZEN. Maryland is proposing a total moratorium through their State endangered species authorization and to take effect the first of January, but they have yet, as I understand it, to go through the public hearing process.

Senator CHAFEE. Go ahead. I am going to ask you to compare these different bills with your expertise and see what you think we ought to do. You go ahead and finish up.

Mr. JANTZEN. I have one closing paragraph, Mr. Chairman. That would be on the need to extend the Emergency Striped Bass Study which was first authorized in 1979. We believe there is additional research in population assessment needs. They are definitely required, but we feel there is no longer a need to have an emergency study authorization. We feel from your standpoint the necessary authorities are found in existing laws, therefore, we don't believe

there is any need to reauthorize section 7 of the Anadromous Fish Conservation Act.

This concludes my prepared testimony, and I will be pleased to try to address any questions you might have.

Senator CHAFEE. Why don't we hear from Mr. Gordon and then I am going to take each of these bills and ask you which one we ought to pass. Go ahead, Mr. Gordon.

STATEMENT OF WILLIAM G. GORDON, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. GORDON. Thank you, Mr. Chairman. My name is William Gordon. I am the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration. My agency implements the Federal fishery management plans prepared by the eight regional fishery management councils pursuant to the Magnuson Fishery Conservation and Management Act. I am pleased to be here today to offer my views on Senate bill 2667, a bill entitled the Coastal Migratory Fish Conservation Act.

In March of this year, Dr. John V. Byrne, Administrator of NOAA, testified before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Committee on Merchant Marine and Fisheries in opposition to H.R. 4884, which called for a 3-year moratorium on all striped bass fishing, on the basis that such action was premature and would pre-empt the State actions to conserve the resource.

While we have not previously testified on either S. 2758 or H.R. 5492, we generally favor the approach taken of encouraging State compliance with the provisions of the management plan adopted by the Atlantic States Marine Fisheries Commission. Also, the Administration would not object to legislation such as H.R. 5492, giving the Secretary of Commerce the discretionary authority to impose a moratorium.

If enacted, S. 2667 would expand the roles of three interstate marine fisheries commissions and the Departments of Commerce and the Interior to respond to the problems of striped bass and other coastal migratory fish species with the threat of Federal regulations in an attempt to encourage coordinated State management programs on a coastwide basis.

The bill requires the Atlantic, Gulf, and Pacific marine fisheries commissions to prepare and submit to the Secretaries of Commerce and the Interior a list of those coastal fisheries that require conservation and management and to rank those fisheries in order of priority.

The Secretaries would be empowered to review, approve or modify the list after taking into account whether appropriate management could be obtained under the Magnuson Act.

Once approved, unless amended, the list would obligate the commissions, on behalf of the coastal States, to develop fishery management plans meeting standards similar, but not identical, to plans now prepared by the regional fishery management councils for the fishery resources of the U.S. Exclusive Economic Zone. If

any commission fails to develop an appropriate plan according to schedule, the Secretaries would be empowered to do so.

In the first instance, approved management plans would be implemented and enforced by State action; however, if any State failed to implement and enforce an approved plan, the Secretaries would be empowered to impose a moratorium on fishing for the species concerned within that State's waters. The Secretaries would also be granted emergency powers to conserve fishery resources until the management programs of the three commissions could be prepared, approved and implemented.

S. 2667, if enacted, would alter the balance of State and Federal responsibility for conservation of fishery resources that was established by the Magnuson Act. Under the act, the Federal Government, acting through the eight regional fishery management councils and the Secretary of Commerce, has stewardship of the living marine resources of the Exclusive Economic Zone, while the States have stewardship of those resources found within State boundaries. Only in carefully limited circumstances may the Federal authorities assume control over State waters. We believe this division of responsibility is basically sound.

We recognize that there are a limited number of coastal migratory species that lack coordinated management. We agree that the present condition of some of these species—notably striped bass—probably merits congressional attention. There is no clear evidence that the coastal States along the Atlantic coast have been able to reverse the serious decline in the striped bass population or improve production from the Chesapeake Bay stocks. In fact, strong evidence suggests that the decline in spawning populations, which became evidence some 10 years ago, is probably at the lowest point in recent memory.

Although we recognize the need for coordinated management addressed by S. 2667, we are opposed to certain provisions of this bill since they unnecessarily complicate and confuse the present State and Federal management processes.

Establishing the interstate marine fisheries commissions as what would be in effect three additional regional fishery management councils, whose actions would potentially conflict with six of the eight existing councils, would increase the cost and further erode the scarce State and Federal funds required for an effective coastal migratory species management program. In addition, there are a number of problems with the far-reaching effects of the approach presented in S. 2667.

No. 1, the commissions are not now Federal agencies; they are interstate compacts approved by acts of Congress. Vesting the commissions with the proposed authorities raises both constitutional and public policy concerns. Would the commissions become subject to the Federal Advisory Committee Act, the Freedom of Information Act, the civil service laws, the conflict of interest statutes, the procurement regulations, et cetera?

No. 2, jurisdictional disputes would be increased by vesting the commissions and councils with essentially the same functions, but for fisheries in different geographic areas. The commissions would have responsibility for management plans for fisheries predominately within 3 miles, while the councils generally would continue

to have responsibility for management plans for fisheries beyond the 3-mile limit.

The commissions would probably require additional staff. It would make better sense to address the legitimate management concerns for important coastal migratory species by assigning management responsibility to the regional fishery management councils, whose staffs are already equipped to perform these functions.

No. 3, the administrative procedures and standards for secretarial approval of fishery management plans under the proposed bill differ from the standards and procedures found in the Magnuson Act. Both commercial and recreational interests are accustomed to the Magnuson Act standards and procedures.

Since few fishermen fish only one species, a very real prospect exists that the fishermen might need to attend meetings of both the regional fishery management councils and the interstate marine fisheries commissions to voice their concerns for management measures which might be imposed upon their businesses and recreational activities, thus, encouraging them to take more time away from their jobs and pursue a recreational interest in order to be represented.

Four, the imposition of secretarial regulations within State boundaries as a result of states noncompliance would constitute a very serious action, but the bill does not contain procedural protections similar to those found in subsection 306(b) of the Magnuson Act.

Five, the bill would reauthorize the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act and establish funding levels for these programs. While the administration generally does not support additional Federal expenditures, we believe there is a proper and important role for the Federal Government in supporting and participating in the management of coastal migratory species.

As an example of the potential national benefits which could be achieved with improved management, the 1982083 Emergency Striped Bass Research Study Annual Report indicated that had the striped bass stock been maintained at the 1974 level, the 1980 fisher could have produced over $200 million additional economic activity and 7,000 added jobs. However, the administration is opposed to reauthorization of the fisheries' grant programs, including section 7 of the Anadromous Fish Conservation Act, as presently constituted. More cost-effective alternatives, such as assigning management responsibility to the regional fishery management councils when State cooperative efforts have failed, should be considered to avoid increased commitments of both State and Federal funds.

Six, the bill assigns management responsibility for anadromous species to the Secretary of the Interior. At this time, the dministration does not favor any realighment of the fishery responsibilities of the Departments of Commerce and Interior.

Under longstanding arrangements, my agency routinely consults with the Interior Department on many programs and a representative of that department serves on each of the regional fishery management councils.

We would continue this close cooperation if Congress chooses to expand the Federal responsibility for coastal migratory species in a cost-effective manner consistent with the administration's fiscal policies.

We would not, however, object to giving the Secretary of Commerce discretionary authority to impose a moratorium on striped bass as is provided in H.R. 5492. In this regard, we recommend that the Department of the Interior be consulted prior to imposing a moratorium.

In conclusion, Mr. Chairman, we do not support this bill; however, we do not object to the striped bass moratorium approach contained in H.R. 5492 with the change recommended above.

This concludes my testimony, Mr. Chairman. I and members of my staff who are present will be pleased to reply to questions.

Senator CHAFEE. Thank you, Mr. Gordon. I must say, you left me a little dazzled here trying to find the difference between commissions and councils. In summary, we have three bills before us. Why don't we call them the Chafee bill, the Studds bill, and the Kennedy bill or the Schneider bill. The Chafee bill is S. 2667; the Studds bill and the Kennedy bill is H.R. 5492; and the Schneider bill is H.R. 4884.

They all have a little different approach. In my bill, we impose the moratorium and tell the States to get together and when they have got a plan, then they can get out from underneath the moratorium.

Under the Studds bill it says that States have until July 1, 1985, to come up with a plan that gives a 55-percent reduction and if they haven't, then the Secretary of Commerce declares a moratorium and then the moratorium can be lifted in accordance with the State plan.

The Schneider bill imposes an immediate moratorium, which mine does also.

In your letter to Mrs. Schneider on May 30, of this year, you said: "The time to act with a moratorium is now." So based on that, I figure you want a moratorium now; is that right?

Mr. GORDON. My letter to Mrs. Schneider was addressing the Chesapeake Bay stock, sir. It was a followup with a personal discussion I had with her which addressed the Chesapeake Bay stock.

In my view, the stock in the bay is in such a depressed situation that a moratorium enacted during this year to affect next year's fishery would be the prudent thing to do.

Senator CHAFEE. You mention the word, as I read your letter, "Chesapeake" once in here in which you say in your second paragraph toward the end, you talk about:

> The biological status of the stock, predominently the Chesapeake Bay stock, warrants the imposition of a moratorium to protect the remnants of this critical population.

That is the only place you mention "Chesapeake Bay."

But never mind, What do you think we ought to do?

Mr. GORDON. I think the action proposed by the State of Maryland and followed by other States, particularly Virginia, would provide much-needed protection to the population that is spawned and grows to some proportion in the Chesapeake Bay.

Senator CHAFEE. But Maryland has talked about it but hasn't done it.

Mr. GORDON. That is correct.

Senator CHAFEE. Virginia, where do they stand?

Mr. GORDON. I am not certain, although I talked with representatives of their position and they do not feel a moratorium only in Virginia would affect stocks there. My views are that if the small juveniles and small fish, prior to entering the fishery, would give it protection by ample size limit being imposed along the coastline of the Atlantic and if all fishing in the Chesapeake Bay were curtailed for a period of time and carefully monitored, then this would provide the best possible situation for protection to the spawning population that comes out of the Chesapeake Bay, yet provide opportunities for the fisheries along the Atlantic States, take into consideration those other stocks, such as those in the Hudson River, which are not in a serious condition.

Senator CHAFEE. You have a lot of ifs in there. Here we are, Mr. Gordon. We have a problem. This thing has been going on, you and I both know, we started these studies in 1979, I believe, and the thing is getting worse, not better. The States are talking about doing something, but they haven't done anything and certainly a State like Maryland, which has had fine leadership from its Governor and other important officials, they haven't been able to get very far.

What specifically are you telling me we ought to do? What should I do.

Mr. GORDON. From my personal standpoint, with some alternatives within your legislation or anyone else's legislation, which would establish some criteria, a process, whether it be hearings, due process, within your bill or an amendment to the Magnuson Act, then a particular species——

Senator CHAFEE [interposing]. Let's just talk to striped bass.

Mr. GORDON. To declare that particular species of national concern, that is, that those addressed in the Chesapeake Bay. This fishery——

Senator CHAFEE [interposing]. Hold it a minute, Mr. Gordon. Why don't you come up, Governor. You can sit here and then you will be next on. Nice to have you here.

Governor HUGHES. Thank you, Senator.

Senator CHAFEE. I am sorry, Mr. Gordon. Here we are; we are only talking striped bass. Go ahead.

Mr. GORDON. Through an amendment to the Magnuson Act or redrafting components of your bill or other bills, where the Secretary of Commerce would declare a particular species of national concern, that is, the Chesapeake Bay striped bass in this instance, provides fishing opportunities for citizens clear up to Maine.

It is in the best interest of the Nation to assist the States in this regard of rebuilding this population. If we did such things, the Secretary could assign this species—striped bass—to one or more of the regional fisheries management councils for developing a plan throughout this range, including the territorial sea and internal water, underline territorial sea and internal waters.

Plan development process and emergency, if required, is in the present process of the Magnuson Act.

Senator CHAFEE. That is exactly where we stand now.

Mr. GORDON. Right.

Senator CHAFEE. For 4 or 5 years now, the Atlantic Marine Fisheries Council, and correct me if I am wrong, have had the opportunity to come up with a plan.

Mr. GORDON. I would separate it. You have the Atlantic Marine Fisheries commission, which has been around for a long time, versus the Council created under the Magnuson Act. The commission has been addressing this for about 6 years. The fisheries management councils have not. The Commission has not been able to persuade the States to act in unison. You are absolutely correct on that.

The councils currently do not have jurisdiction inside of 3 miles unless the Secretary preempts the respective States. An amendment to the Magnuson Act could take care of that legal problem.

Senator CHAFEE. Mr. Gordon, time is late here and we have several bills before us. If we start fooling around with the Magnuson Act, and that is in the Commerce Committee, I presume, we might as well scratch this year.

Mr. GORDON. The alternative is one that I have mentioned to Congresswoman Schneider; that if the States fail to act, then the Fish and Wildlife Service, and ourselves, could use the threatened species provision of the Endangered Species Act.

Senator CHAFEE. I am not sure we got that far with the striped bass. The striped bass has not been specified as endangered species.

Mr. GORDON. It would not take us procedurally long to do so. To say "endangered" is one thing, but to classify it as "threatened" and preempt the States under the authority of the Endangered Species Act is an alternative that could be pursued.

Senator CHAFEE. It is my understanding there are petitions asking the Commerce Department to do that, and they haven't done it.

Mr. GORDON. We have been petitioned in the past for owning a piece of it and based on that petition, it only addressed a piece of the stock, we have declined to take action.

Senator CHAFEE. I will tell you, Mr. Gordon, I just feel a sense of frustration here. I see a real emergency out there. I am not trying to ram the Federal Government down anybody's throat, but these States just haven't managed to get together.

Mr. GORDON. I think I share your frustration.

Senator CHAFEE. We are going to hear from the Governor, and I am looking forward to that, and I know that Maryland is in the process, but I suspect there will be plenty resistance there because no one else has done it; why should they?

In my State, we did it and there was an uproar, so they reversed themselves. I am very discouraged that the States are not going to get together.

Mr. GORDON. I think I share your frustrations because both regional director and now Director of the National Fisheries Service have watched inactions carte blanche. We are currently taking a look from the procedural responsibilities of the Endangered Species Act to be prepared to take on the States on that.

I have consulted with the current chairman of the Atlantic Marine Fisheries Commission and explained my position. The At-

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lantic Marine Fisheries Commission meets next month. I indicated that I felt that action cannot be taken by that body; then it is time for us to consider carefully whether we preempt States.

Senator CHAFEE. But you can't preempt the States unilaterally with the powers you currently have, can you?

Mr. GORDON. Yes, sir, we can.

Senator CHAFEE. Through the Endangered Species Act?

Mr. GORDON. Yes.

Senator CHAFEE. You have to get the Commerce Department to act first.

Mr. GORDON. We have to make the determination and move it through the process that the Endangered Species Act lays out. I can add there are already between Interior and us a large number that are classified as endangered or classified as threatened, and neither agency has been reluctant to do so if the evidence supports it.

Senator CHAFEE. What have you got to say, Mr. Jantzen? I am not interested in what OMB wants. We have the position of OMB. I am interested in your personal views on how to handle this. What are we going to do? Are we going to wait a little bit longer and see if they can get together, the Studds approach? If they don't get together July 1, then we put a moratorium, or do we put a moratorium on, as Mrs. Schneider suggests, and then have this process of working our way out of it, or do we put a moratorium on and then it comes off as soon as an interstate management plan is approved, developed?

Mr. JANTZEN. Mr. Chairman, I will be happy to give you my personal opinion. The States had an opportunity to address the problem, as I suggested earlier. They feel they made substantial progress. I would agree with that. I believe that that effort, according to our analysis, though, falls short of what is needed.

Personally, I would suggest that you look seriously at your legislation, but with amendments that narrow it, just the striped bass, and perhaps an amendment to provide a grace period, if we want to call it that.

Senator CHAFEE. Pardon?

Mr. JANTZEN. A grace period; in other words, an extention of time to allow the States to improve on what they already started through the recent efforts of the Atlantic Marine Fisheries Commission. They made a substantial start, but it is kind of slipping away from us.

I think you might want to consider at least a short time period to allow them to readdress the question. As Mr. Gordon mentioned, the commission is going to be meeting, I believe, in Savannah, GA, in the next month. So this is timely.

That is my personal opinion to you as to where we stand now.

Senator CHAFEE. How do you know what the commission plan is? Do you know what it is?

Mr. JANTZEN. We have examined what was done 2 or 3 months ago on the part of the States individually and then collectively through the commission. We have tried to make an analysis of what we feel that would do to the entire purpose and goal of reduction of fishing efforts. We feel it would amount to between 25-percent and 35-percent reduction of fishing effort.

Senator CHAFEE. Do you think that is adequate?

Mr. JANTZEN. At this point in time, considering continued decline of stocks and mortality in young fish that Mr. Gordon mentioned, we mentioned, no, sir.

Senator CHAFEE. So we wait until December, January, whenever their meeting is—October. Then we are gone.

What pressure is there for them to do something? They are disturbed, but they just don't seem to be able to get together.

Mr. JANTZEN. Mr. Chairman, what I suggested was: Should your bill be passed, instead of having a moratorium effective upon enactment, that there be consideration of, say, 6-month, 4-month time period before it became effective.

Senator CHAFEE. In order to do what? To give the States a chance to get together and have their own plan?

Mr. JANTZEN. Yes, sir; that can then be reviewed.

Senator CHAFEE. By Fish and Wildlife?

Mr. JANTZEN. By the Department of the Interior and Department of Commerce. I think both agencies certainly share a responsibility in this resource and should be included.

Senator CHAFEE. That is to a degree what the Studds bill does, isn't it? To a degree, he gives them a little longer time.

Mr. JANTZEN. You could amend the Studds bill to conform some provisions that are contained in yours. You can kind of go either way.

Senator CHAFEE. I am not sure that the Studds bill—by trying to implement the 1981 management plan—is really up to date because I am not sure the 1981 management plan is sufficiently strong to handle the crisis we now have. What do you say, Mr. Gordon?

Mr. GORDON. I would agree with you, the Atlantic States Marine Fisheries Commission meets in Savannah and would be reviewing that plan to see if it is the appropriate way to go. They may well decide that it is not—as we have spoken here, and would further address, perhaps, the moratorium up and down the coast—or something less than that.

And the Studds bill, as I read it, would take whatever plans came out of the commission. So it could be far more stringent than was contemplated when they drafted this bill.

Senator CHAFEE. I think there is great virtue in having the States agree amongst themselves, even under the threat of the Federal Government, because then it is theirs and, presumably, there will be some incentive for them to enforce it rather than them washing their hands of it and say, OK, if you Federal people want a law, you go ahead and enforce it and we have a terrible time doing it.

So we want the States feeling they are doing this. So I think there is a lot of merit in what you say. We have some problems. Governor, do you have any questions you want to ask these folks?

Governor HUGHES. No.

Senator CHAFEE. Anything else you want to add, Mr. Jantzen?

Mr. JANTZEN. Mr. Chairman, in your last statement you hit on the one point I wanted to make. That is, if the States have an opportunity to solve their problem—everybody's problem—and feel like they are part of that process rather than having a Federal

moratorium imposed immediately upon them, I think you are absolutely right, there would be much more willingness and much more efficient enforcement of the regulations that result from that effort, say a collective effort, State and Federal, and much less resentment to the Federal imposition of a moratorium.

To me that is key, because the enforcement of any regulation designed to take care of this problem is going to be very critical and it is going to take the combined efforts of the Federal and State agencies to do an adequate job of enforcement.

Senator CHAFEE. I certainly agree with you on that. If the States are resentful of what we are doing, then we are not going to get very far.

Let me ask you this. If the State representatives at this meeting in Georgia agree, let's just take a hypothetical, they agree on a moratorium for 1 year, 2 years, under their laws, can they enforce that? Do they have to go back to their States and get legislation to follow up on that? How does that work?

Mr. GORDON. It varies, Senator, from State to State. Some States would require legislative action; others have fish commissions, a commission of some sort. So that has been one of the problems that your bill or others would address. It provides—in a sense—a system so that coordination can be achieved until all States catch up.

I would also add that your bill provides an opportunity to address all interjurisdictional species. The other bills only address striped bass and there are other species, although they are not in the difficulty striped bass is in, potentially will be in that condition unless the States find a mechanism to act in unison to provide a coastwide management remedy.

From my personal viewpoint, your bill, with some adjustment, reduce the conflicts, the costliness, would provide a mechanism for all interjurisdictional species, if needed, without unduly preempting the States. They would have every opportunity to act first and should. Where there are international interests and a variety of species, that definitely will be in the national interest. Your bill will provide the mechanism properly adjusted to take care of it. And so the present authority we have to act now in the Federal regime would be the threatened provision of the Endangered Species Act, but it does brutally, if you will, preempt the States, but it is the only immediate authorization that we have to act on now.

I agree wholeheartedly what you said and Bob has said, give every opportunity for the States to participate in this. After all, it is in all of our best interests to do so.

Senator CHAFEE. I suppose one of the problems is if they agreed on something in Savannah, and I think in my State we have a mechanism where it doesn't have to go to the legislature, these representatives, if they agree there will be a moratorium, such and such a size, they have the ability to enforce that. I don't know about the other States.

If you have the other States, let's say New York, that has to go to their legislature, there is liable to be a big tug of war and considerable time elapsed before New York arrives at a conclusion.

Mr. JANTZEN. Mr. Chairman?

Senator CHAFEE. Then you have the other States resentful. They have gone ahead and imposed this and New York hasn't, Virginia, or whoever it is.

Mr. JANTZEN. With regard to the utilization of the Federal Endangered Species Act, my personal opinion is that act should be implemented on the merits of the situation rather than to use the act to force a management consideration or management action.

Your bill addresses the management action. To me that is a better situation than utilization of the Endangered Species Act.

Senator CHAFEE. I agree with you, Mr. Jantzen. I think to use the Endangered Species Act as a conduit to approach a problem because we can't otherwise solve it is really not the right way and that is stretching the Endangered Species Act.

I agree with you. I think we would be hurting the Endangered Species Act in the long run if we used it in some fashion such as that. I agree with. I think it creates all kinds of problems.

Thank you all for coming, gentlemen.

Governor, we welcome you here. You have really been a leader in this field. Perhaps if you could identify the gentlemen with you and then proceed with your statement in any way you want. We will put your entire statement in the record.

Now, there is a vote just started. I think for the sense of continuity, if you could wait a few minutes, I will rush over and vote and be right back.

Governor HUGHES. Fine.

Senator CHAFEE. We will be in brief recess.

[Brief recess.]

Senator CHAFEE. All right, ladies and gentlemen, if we could get started. There is going to be another vote shortly after this. I would like to be able to work in the Governor's testimony so he would not be delayed.

Governor, proceed as you wish.

STATEMENT OF HON. HARRY HUGHES, GOVERNOR, STATE OF MARYLAND, ACCOMPANIED BY DR. TORREY C. BROWN, SECRETARY, DEPARTMENT OF NATURAL RESOURCES, STATE OF MARYLAND; HON. CLAYTON MITCHELL, DELEGATE FROM KENT COUNTY, HOUSE OF REPRESENTATIVES; AND LARRY SIMNS, MARYLAND WATERMEN'S ASSOCIATION

Governor HUGHES. Thank you, Senator. And thank you for the opportunity to appear. I will introduce the people sitting with me. First, Dr. Torrey Brown, who is secretary of the Maryland Department of Natural Resources. To my immediate left is Delegate Clayton Mitchell from Kent County, MD, Maryland House of Delegates, chairman of the House Appropriations Committee. To his left is Larry Simns, who is the head of the Watermen's Association in Maryland.

I might say at the beginning that these two gentlemen haven't particularly agreed with us on the moratorium we have imposed in Maryland, but they do agree with what we are about to say today.

As you recall, a year and a half ago, I appeared before the Senate Environmental Pollution Subcommittee with Senator Mathias and Senator Sarbanes to bring to your attention disturbing

findings of the EPA Chesapeake Bay Program and to express my support for the proposed inception of the Clean Water Act in the Chesapeake/Narragansett section. Since that time, much has happened.

We now have the really unprecedented regional, Federal, and State local Chesapeake Bay Restoration Program and support in this program just continues to amaze me. It continues to be very, very strong. It is no longer confined to the bay region. It has become a national effort and the encouragement and interest from this committee, notably from you, Senator Chafee, were instrumental in building support for this regional and national alliance to save the Chesapeake Bay.

Recently, Dr. Brown, the Secretary of the Maryland Natural Resources, made a very difficult decision, a decision which I supported and continue to support. He declared striped bass a threatened species and proposed a moratorium on commercial and recreational taking and fishing for striped bass. None of us are particularly happy about the decision, but it was a decision that had to be made.

Let me first review with you some of the background, some of the action taken last week as it relates closely to management effort by the Atlantic States Marine Fisheries Commission and to the legislation before this committee.

Last October, after witnessing the decline in our annual young-of-the-year survey of striped bass, I requested the Atlantic States Marine Fisheries Commission to take action to increase protection of striped bass.

The commission developed a 55-percent reduction plan, which is being implemented by the member States. As Maryland moved to implement this 55 percent reduction plan, our field investigations were cranked up considerably, very much intensified. Our biologists assisted by scientists from other States and the Federal Government, analyzed the rockfish resident and migratory spawning stock, monitored environmental and physical parameters, such as disease and habitat conditions, calculated survival young of the year, and based on observations of spawning stock, the spawn and the hatch, we had every reason to believe that we would see an improved young-of-the-year index this year. Unfortunately, it just didn't turn out that way.

While our studies showed greater numbers of fish spawning in the bay, these benefits were negated by an unusually high mortality in eggs and nursery areas. There was rather encouraging, positive eggs, but the mortality was very high. Indeed, our young-of-the-year index, while not complete, will probably show a low index, probably close to three. That means in 42 of the locations in the bay area, the average catch young-of-the-year rockfish was only 3. The highest year I think that anybody knows about—one of the highest years was 30. So you can see we are a long way from highest.

Factors in the environment and in the fish are at work to counteract the benefits which we all hoped for under that 55 percent reduction. We hope these factors can be identified and can be corrected.

In the meantime, of course, one of the things we are doing is to implement a $40 million—this is the first year—a $40 million Maryland Chesapeake Bay Restoration Program to improve the habitat. However, since the success, or failure, of this 55 percent plan cannot be gauged for many years, probably as many as 10, we will not risk that possibility that that plan might fail. For these reasons, we had no choice, we feel, but to impose a moratorium to assure the maximum protection to our precious Chespeake rockfish stocks.

Our action is dramatic and it has far-reaching repercussions. It will cause great economic sacrifices to our watermen who earn their living catching rockfish. Sports fishing and recreational interests will be affected. Communities, such as the town of Rockhall, will be adversely impacted.

To counteract this, I established a task force to make recommendations on how compensation can be accomplished for both the commercial fishermen and the charterboat captains. Our goal is to restore a fishery which can sustain fishing for striped bass in the future. The more rapidly the fishery is restored, the more rapidly our watermen can return to their previous lifestyles.

So, in this instance, I feel that Maryland has not shirked its responsibility. We recognize we do have a greater responsibility, maybe in other areas, because the bay is a major spawning area and nursery area for the Atlantic Coast States and a greater responsibility in that regard and, I think, a greater obligation to show leadership.

However, we will be soliciting the cooperation and assistance from the other Atlantic Coast States. This week, I will be writing the Governors of each member States included in the Atlantic States Marine Fisheries Commission informing them of our actions and urging that measures more stringent than the 55-percent reduction be taken, including moratorium where necessary to fully protect the Chesapeake Bay stock.

It is our hope the commission will recommend these actions be taken. When I say "moratorium where necessary," what I really mean is I believe there should be a moratorium on striped bass in coastal waters, Chesapeake Bay striped bass.

Let me now turn to the legislation that is pending before this committee. Federal support is critical to the successful conservation of Atlantic striped bass. Maryland supports legislation intended to enhance the commission's efforts and a cooperative conservation effort to preserve striped bass. We are satisfied in Maryland that the Atlantic States Marine Fisheries Commission, as an institution, can develop the plans and the member States can achieve the goal in reducing fishery pressure.

Therefore, we do not support an immediate imposition of a moratorium as called for in your bill. I might say at the outset, we support your bill with this one exception. We feel there should be a modification there.

Senator CHAFEE. Modification in what respect, Governor?

Governor HUGHES. Well, we have had pretty good success working through the commission in the last year. As I have indicated, we went to them last October and by July, all of the States had

been implementing the plan that was recommended, the 55 percent.

We would like to work through that commission proposing the kind of moratorium I am mentioning for the Chesapeake Bay striped bass in coastal waters. It already has been mentioned there will be a meeting in Savannah. We will have people there representing our point of view. I might say that my two friends to the left who have had problems with the moratorium do agree that this approach should be taken; that we should work through the commission, through the States to get a moratorium to protect the Chesapeake Bay striped bass.

I would agree if that isn't successful within a reasonable period of time, then other measures should be taken. I think there is a provision in your bill that would provide that; that if a State does not implement a plan recommended by the commission, which plan we would hope to include a moratorium on Chesapeake Bay striped bass, that the commission could recommend and the Federal Government and the Secretary could impose that moratorium.

We support the requirement for the commission to establish a fishery management plan for specified fisheries. We commend you, Senator, for the plan in your bill and the guidelines and process outlined in the bill are important, we feel, and well conceived. We would suggest additional language, which is something we suggested to the commission last year, providing that fishery management plans include juvenile reproductive indices as part of the best scientific information which is a criteria to be considered in the adoption of conservation management measures.

It is my belief that Maryland's position is consistent with the management efforts of the commission, which we have participated in for many years.

Our position recognizes the need for strengthening fishery resource planning while at the same time preserve and enhance the cooperative character of the Atlantic States Marine Fisheries Commission. I think what was said earlier by you and the people who were testifying before me, that if we can get this kind of cooperation and action through the commission, through the States, that the success in enforcement is probably going to be greater than if it comes down from up above.

Let me go on so far as the bill is concerned. More funds must be made available to the States if they are to be successful in managing their fisheries. The fishery resources are natural in nature—it is obvious because I am here—and are vital to the commercial and recreational fishing industries. Therefore, we strongly support the provisions of your bill which increase the authorization for fishery resources and development programs, monitoring activities and management plans.

It is my understanding that the Senate Appropriations Committee is requesting that the Department of the Interior provide analysis of increased Federal support for hatchery programs, I strongly urge that this analysis give strong consideration of a hatchery program for striped bass in the Chesapeake Bay.

I might say, part of our bay program is to improve, enhance, expand our hatchery activities of striped bass in the bay.

In conclusion, the legislation before the committee goes a long way toward addressing some of those issues I have mentioned today. Clearly a more intensive State and Federal cooperative effort is needed to address the important fishery resources, such as the rockfish, which are in decline.

For those sitting behind me who don't know what I mean by rockfish, it is a striped bass and happens to be the Maryland State fish.

I wish to indicate today we in Maryland stand ready to participate fully in such an effort, even as we institute vigorous action to restore Chesapeake stocks of this very splendid fish.

I thank you for the opportunity. I might say, I am emphasizing a point here that through the many hearings that we held this past year around the State with regard to the striped bass, there were those who were in favor of the moratorium, those who were not in favor of the moratorium, and the 55-percent reduction, but continue to look at the situation. We decided to go to 55 and when we found that the survival was very, very poor, even with a pretty good deposit of eggs, we thought those advantages stressed by the people in favor of the moratorium were even greater and that we really had not much choice.

One of the strongest points was to eliminate the risk, if we go to the 55-percent reduction, it may work, it may not work and we won't know for some time. If we go with a total moratorium, we have eliminated that risk of that program working.

There are problems, pollution problems that we are trying to address, but as I said, recently at a press conference in responding to questions, if you have a problem of survival of the young fry, and that is where the mortality was, about the first 12 days after they hatched, you have got to address the environmental problems, but in the meantime, the more eggs you have, the more are going to survive and the more fish you have, the more eggs you are going to have. That is basically why we put on a moratorium which has a tremendous amount of support in Maryland, obviously, has some opposition, but also has some tremendous support.

We feel because of the success we have had in the past we can get the kind of cooperation, again, through the commission and support the commission to address the problem of being more restrictive. Thank you.

Senator CHAFEE. Thank you very much, Governor. You have been a great leader in this field. Let me ask Dr. Brown, are you the State's representative? Do you attend the regional fisheries meetings? Will you be at the one in Savannah?

Dr. BROWN. I am not the State's named representative. I haven't decided whether or not I will go to Savannah. We talk with all the people who do go.

Senator CHAFEE. I am not going to hold you to any prediction, but obviously Maryland is an influential member of the group. What do you think the chances are they would adopt a moratorium?

Dr. BROWN. I think the chances are pretty good.

Senator CHAFEE. Pretty good.

Dr. BROWN. We were told last year that we had no chance of getting down to recommend and then have States cooperate with the

55-percent limit. But that is not what happened. We recommended that 55-percent reduction in all but one State.

Senator CHAFEE. And that is a total moratorium on commercial and sports?

Dr. BROWN. Yes.

Senator CHAFEE. You gentlemen were here when the previous witnesses were on. Obviously, we would prefer to have it come from the States. After all, it has to be enforced. Unless we have the support of the States in the enforcement, we are not going to get very far, and also the whole spirit in which the thing is approached. We don't want to be big daddy up here trying to tell people what to do.

I think that is a good suggestion that you have here.

Governor HUGHES. I have a feeling Dr. Brown will be there. As a matter of fact, I know he will.

Senator CHAFEE. Mr. Simms, do you have any comment you would like to add?

Mr. SIMMS. I would like to add the commercial watermen are making a tremendous sacrifice with a moratorium. We feel that is a little bit too tough. We would oppose the Federal people imposing a moratorium because we wouldn't have an input as to when the moratorium should be lifted. Now that we have a moratorium, I think it is important the other States follow suit. There is no point one State doing it without the rest of them doing it.

The other thing, very important, with the watermen sacrifice, it is very important the Federal people come up with a lot of money for research and development. We don't want to have a moratorium and everybody forget about the rockfish problem and not do anything about it. It is going to take lots of money to do that.

It is not catching the other fish that is the problem; it is the reproduction. If we don't solve that problem——

Senator CHAFEE. Delegate Mitchell.

Mr. MITCHELL. Thank you, Senator. I would just like to reemphasize what Larry says as far as the research goes.

Maryland has, so to speak, put some money into the programs. The Governor mentioned he put some $40 million into it this year. We are doing our share. We need more money for research, and we feel the States have cooperated. The Governor went up last year to the commission and got the 55-percent program sold. We felt the moratorium was unnecessary. We felt the 55-percent program was working. It worked for 1 year. We felt it should continue, but the department made a decision for the moratorium.

As Larry says, we want to make sure if the moratorium is on, it should be on for all States, but we feel we should be working through the commission rather than having the Federal Government put the moratorium on. We feel we have more input that way and we feel we all have the same problem. It is just we have a different way of getting to the solution of the problem.

The people I represent and Larry represents feel the moratorium is too harsh. The 55 percent was working and the research money is definitely needed. Without that, the moratorium is going to accomplish really not too much. We need to know how many fish are out in the bay, and these type of things. We need to get a better index figure than what we have so the young of the year can be compared to the total amount of fish that might be out there.

Again, if the moratorium is going to be on, the rest of the States should comply with a total moratorium.

Senator CHAFEE. I couldn't agree with you more. Governor, in your testimony, you mentioned something about Chesapeake stocks, but I think you must include not only Chesapeake stock but the moratorium applied to all striped bass because in Massachusetts and Rhode Island, they will say these are Hudson Bay fish.

Governor HUGHES. All striped bass in coastal waters; yes. It is hard to tell which one came from the Hudson and Chesapeake.

Senator CHAFEE. Fine, gentlemen. Thank you for coming. We certainly are going to move right along. Again, thank you, Governor, and thank you also for the picture.

There is another vote on and I will be going to vote and come right back.

[Brief recess.]

Senator CHAFEE. Gentlemen, if we could start. Why don't you start right off, Mr. Colvin.

STATEMENT OF GORDON COLVIN, DIRECTOR, NEW YORK DIVISION OF MARINE RESOURCES, REPRESENTING INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. COLVIN. Thank you, Mr. Chairman. I thank you on behalf of the International Association of Fish and Wildlife Agencies for the opportunity to present our views with respect to pending Senate bill 2667, title I, section 112. It is the longstanding policy of the International Association that fish and wildlife resources occurring within the boundaries of and in the territorial seas adjacent to individual States are held in trust by the States for the enjoyment, appreciation, economic, and scientific benefit of present and future generations. Management agencies must strive to improve the quality and quantity of fish and wildlife resources and their habitats and ensure, at the very least, that these resources are passed on to succeeding generations in a viable condition. In addition, management must establish as a high priority the development and/or maintenance of adequate numbers to ensure the aforementioned benefits and optimal numbers of high interest species.

The International Association strongly supports the establishment and maintenance of viable working partnerships between State and Federal Governments, with respect to the management of those fish and wildlife species that regularly migrate across State and National boundaries.

With respect to those marine and estuarine species which are exploited mainly in the internal waters and territorial seas of the several States, such as the striped bass, the International Association concludes that the cooperative management effort of the States functioning through the regional marine fisheries commissions, with the technical and financial support and cooperation, of the Federal Government, is the most appropriate and effective means of managing such fisheries.

It is, therefore, recommended that legislation under consideration be carefully crafted so as to maintain and improve these traditional State/Federal relationships and to provide that States, either individually or working cooperatively through interstate

commissions, maintain their preeminence in the management of fisheries occurring primarily within their internal waters and territorial seas.

Comments on section 112: Section 112 would establish a Federal moratorium over the fishing for striped bass in the territorial sea and internal waters of the Atlantic coastal States. It would further provide that the Atlantic States Marine Fisheries Commission shall proceed to develop a fishery management plan for striped bass. As States implement this plan, the moratorium may be lifted by actions of the Secretaries of Commerce and the Interior on a State-by-State basis.

The adoption of a moratorium on the harvest of Atlantic striped bass is attractive at the present time for a number of reasons.

Senator CHAFEE. Maybe you could summarize these.

Mr. COLVIN. I shall, Mr. Chairman. First, there is no question that the Atlantic coast striped bass stocks are in need of considerable protection from fishing mortality in order to appropriately conserve and rebuild them. It is clear imposition of a moratorium would unquestionably constitute the most complete means of reducing total fishing mortality and would further constitute the maximum regulatory action possible for fishery managers and government.

Second, a moratorium is presently one of the few management measures which some users of the resource have been able to agree upon as appropriate. Imposition of a moratorium would not involve the reallocation of the remaining harvest resource.

Third, a moratorium can probably be implemented more quickly than other strategies for reduced mortality implemented through State legislation or through State and Federal regulatory actions.

However, the introduction of Federal legislation imposing a moratorium does suffer from certain serious drawbacks which are as follows:

First and most importantly a Federal moratorium seriously impinges on traditional areas of State jurisdiction. Application of Federal control over the harvest of a species in State waters would seriously jeopardize the existing cooperative relationship between the States and the Federal Government.

Second, a moratorium on the harvest of all Atlantic striped bass is probably not necessary at——

Senator CHAFEE [interposing]. Being harsh, if I might, just for the purpose of this discussion, so what? So it does jeopardize the existing relationship. It gets the job done. What is the downside? What do you mean by seriously endanger the relationship?

Mr. COLVIN. Mr. Chairman, I think that over the long term, as other witnesses have pointed out, and this is the third point under these drawbacks, emphasizes the ability to enforce a moratorium without the cooperative relationships between the States and the Federal Government would suffer first and would impede whether or not the job could get done.

Senator CHAFEE. Thank you. Point 2.

Mr. COLVIN. A moratorium on the harvest of all Atlantic striped bass is probably not necessary at this time. Actions this year by the Atlantic States Marine Fisheries Commission and its member States have made it clear that measures short of a total moratori-

um can be implemented and are sufficient to rebuild Chesapeake stocks.

Senator CHAFEE. Well, I don't know. Tell me a little more about that. First you say a moratorium on the harvest of all Atlantic striped bass is not necessary. You mean just on the Chesapeake Bay ones but not on the Hudson Bay one, Hudson River ones?

Mr. COLVIN. Mr. Chairman, that will be a subsequent point, specifically in reference to the Hudson River stock.

Senator CHAFEE. How do you tell them apart?

Mr. COLVIN. We cannot tell them apart when we pick them out of the water, but scientists have developed, using funds provided by section 7 of the Anadromous Fish Act, techniques for the identification of the stocks as either Hudson or Chesapeake.

At this time, the scientists at the University of Rhode Island are analyzing samples taken from the waters around New York, Connecticut, Rhode Island this year for the purpose of endeavoring to determine from those samples what proportion of those sticks are derived from the Hudson or Chesapeake.

Senator CHAFEE. Are you really being realistic here? You just heard from the Maryland fishermen. There is this greatest traditional source of striped bass. If we say, well, it is OK for Rhode Island and Massachushetts fishermen, Connecticut in the months of May, June, and July, perhaps from the Hudson Bay stock, it is OK for you to fish for that, but we have got to have a total ban on the Chesapeake Maryland fishermen because they will only be catching Chesapeake Bay, isn't the whole thing going to fall apart?

Mr. COLVIN. Mr. Chairman, I don't believe it will. My impression of the position of the State of Maryland, as expressed by Governor Hughes and members of his staff with whom I conversed today and previously, are that it is their view that moratorium is the appropriate action at this time for fish and the harvest of striped bass within the Chesapeake Bay. They are not advocating a complete moratorium on the harvest of either Chesapeake or Roanoke River or Hudson River striped bass outside the confines of the Chesapeake Bay.

Senator CHAFEE. We were all here; we just asked him that question. You were here. Didn't you hear those gentlemen testify?

Mr. COLVIN. Mr. Chairman, it was my understanding Governor Hughes was advocating an in-bay moratorium and a substantial further reduction, beyond 55 percent, outside the bay. I think the Governor also indicated he would be delighted to see the moratorium outside the bay. It was not my understanding of what he was advocating.

Senator CHAFEE. That certainly was not my understanding. We will review his testimony more carefully.

Your point 4 is on the Hudson Bay stock, which you are saying is healthy. So go ahead now with your next section.

Mr. COLVIN. Thank you, Mr. Chairman. I think there are three technical difficulties that could be addressed in the subcommittee's ongoing review of this bill. First, the definition of coastal waters set forth in section 103(4)(A) would incorporate stocks of striped bass which inhabit isolated inland water bodies as well as certain nonmigratory estuarine stocks. Means should be found to exclude such populations.

Second, the status of the existing Interstate Fishery Management Plan for the Striped Bass adopted by the Atlantic States Marine Fisheries Commission is unclear. Would the moratorium remain in place until the Secretaries review the existing plan, or does the bill conclude the existing plan is inadequate? If the former is the case and the Secretaries ultimately conclude the plan to be adequate, a moratorium of indefinite duration will have been needlessly implemented.

If the latter is the case, the bill should provide guidance as to the nature of the identified inadequacies.

Third, section 112(e) provides that the Secretary may terminate the moratorium. If the requirements of this bill have been met, there should be no room for secretarial discretion in lifting moratoria.

In conclusion, it is the recommendation of the International Association of Fish and Wildlife Agencies that a federally sponsored moratorium not be implemented, but the Congress continue to carefully monitor the efforts of the States through the Atlantic States Marine Fisheries Commission working cooperatively with the Federal Government to effect further reductions in the mortality of Atlantic coastal stocks of striped bass.

I thank the subcommittee for the opportunity to present the views of the International Association of Fish and Wildlife Agencies with respect to these important legislative matters. I would like to thank the sponsor of this legislation for his continued support for and leadership in, maintenance of interstate fishery management programs and striped bass research.

Senator CHAFEE. Thank you very much, Mr. Colvin. That is helpful. I have some trouble with your conclusions, not that the Federal Government should not impose the moratorium. I am willing to go along with that. Frankly, I think that may be the whole best approach for us to take. It is much better to have it from the States via the Atlantic States Marine Fisheries Commission, but I find this tendency to try and draw a differentiation between the Chesapeake and the Hudson River stocks difficult. I am not sure I like that.

Mr. Alperin.

STATEMENT OF IRWIN M. ALPERIN, EXECUTIVE DIRECTOR, ATLANTIC STATES MARINE FISHERIES COMMISSION

Mr. ALPERIN. Mr. Chairman, I am Irwin Alperin. I am the much-maligned——

Senator CHAFEE [interposing]. No, you are not much maligned.

Mr. ALPERIN. We don't think we are maligned because we think we are doing a good job. On behalf of the commission members, I appreciate the opportunity to present our views on S. 2667, the Coastal Migratory Fish Conservation Act, including its focu on an immediate moratorium on the Atlantic striped bass fisheries.

I would like to submit my entire statement for the record and I also have two short statements from the Gulf States and Pacific Marine Fisheries Commission. They asked me to ask you if they can be submitted for the record. I don't know if you received copies in the mail.

Senator CHAFEE. Yes, we did. We will put them in.

Mr. ALPERIN. The Atlantic States Marine Fisheries Commission was established by a compact entered into by the various——

Senator CHAFEE [interposing]. You have a pretty lengthy statement here.

Mr. ALPERIN. I am going to address what we are doing in the interstate program and section 112, as you requested. The rest of it will just be included in our written statement.

Senator CHAFEE. Fine.

Mr. ALPERIN. The compact has been in existence since 1941. The consent of Congress to the Interstate Compact was signed by the President in 1942.

There are 15 participating States—the coastal States from Maine to Florida and Pennsylvania, Commonwealth of Pennsylvania for its interest in the anadromous fish. Each State is represented by three commissioners—an administrator of marine fisheries; a legislative member appointed by its Committee on Interstate Cooperation—incidentally, one of our members was here, Mr. Clayton Mitchell—and a knowledgeable person appointed by the Governor.

The commission is supported by appropriations from the member States based on the value of their respective landings. Although the States determine all policy in their respective jurisdictions, the commission provides a forum for discussion and resolution of common problems and assists the States in developing joint programs.

In addition, in more recent years, the commission administers the Atlantic States Marine Fisheries Commission Interstate Fisheries Management Program, an outgrowth and continuation of the National Marine Fisheries Service State/Federal Fisheries Management Program with which we have been associated since its inception in 1971-72.

Under the aegis of the ISFMP——

Senator CHAFEE [interposing]. Let's skip to the striped bass, shall we?

Mr. ALPERIN. We already have management plans for several other species that you would consider in your legislation.

Senator CHAFEE. Yes, but we are short of time.

Mr. ALPERIN. Incidentally, there are some reports appended to my statement that will be of interest to you.

Section 112 would impose an immediate moratorium in all States under the Atlantic States Marine Fisheries Commission's jurisdiction. The moratorium would be lifted on a State-by-State basis as each State implements the provisions of an interstate fishery management plan prepared by the commission and approved by the Secretary of the Interior.

Senator CHAFEE. Not too fast because I want to follow it. OK, go ahead.

Mr. ALPERIN. We are opposed to the provisions of section 112. We feel the moratorium provision is not necessary or appropriate at this time.

I would like first to describe briefly what the ASMFC and its member Statess have accomplished in the interstate management program and what further measures we intend to take in the very near future.

The Atlantic States Marine Fisheries Commission has been deeply involved with the striped bass fishery for many years. As a matter of fact, Mr. Chairman, the first action it took in 1942 was the request of minimum size of striped bass. In 1981, we developed our fishery management plan for striped bass which was approved by the 12 member States with migratory striped bass stocks within their waters. These states then proceeded to implement the plan through their individual legislative and regulatory processes. The 1981 interstate plan has now been essentially implemented in its entirety.

I don't know if you were aware of that.

There is no question that the striped bass population is now experiencing a serious decline and that striped bass reproduction in the Chesapeake Bay has been seriously below the average in recent years. We agree wholeheartedly that fishing pressure on the Chesapeake Bay component of the fishery should be reduced, and we are proceeding quite rapidly to accomplish such a reduction.

In late 1983, scientists investigating the causes of the decline of striped bass under the Chafee emergency striped bass study concluded that striped bass stocks have continued to decline in spite of recent management measures by the States participating in the interstate management program, and that more restrictive striped bass management measures would be required.

When we heard these recommendations, our Striped Bass Scientific Committee and Management Board immediately began to work on recommendations to our member States. By December 1983, a set of interim restoration measures were developed and presented to the States for their approval and implementation. These interim measures urge the States to effect an additional 55-percent reduction in the fishing rate on Chesapeake Bay stocks beyond that which was effected by the reductions achieved by implementation of the 1981 mangement plan.

Senator CHAFEE. Let me ask you a quick question. I am not here to quibble with anything you say. In the Studds bill, it says in summary, if the States have not implemented the 1981 management plan with an additional 55-percent reduction by next July, first of all, you are saying they all have implemented the 1981 plan; is that right?

Mr. ALPERIN. Essentially, yes, sir. I have a table that will show what has been implemented. It is included in my testimony.

Senator CHAFEE. Now then last year you asked the additional 55 percent.

Mr. ALPERIN. That is right.

Senator CHAFEE. Where does that stand?

Mr. ALPERIN. That stands well achieved up to now. I think 7 of the 12 States have achieved the 55 percent and there are only 3 States that haven't achieved or have achieved a relatively small percentage of that. The 55 number is sort of fixed in everyone's mind, but in some cases, the examination of what a State would do, via the scientists agree—perhaps it was only 50 percent. I wouldn't quibble about a 5-percent reduction because we are talking overall now of about a 75-percent reduction in striped bass fishing effort based on the 1981 measures and the new measures for 1983. That is a considerable reduction in fishing effort and landings.

In late May of this year, the Striped Bass Management Board convened to evaluate the States' progress in implementing the interim restoration measures on a State-by-State basis. In the first 5 months of this year, many States were able to achieve the additional reductions and others were able to make very substantial progress toward their goals, despite institutional constraints such as the need for legislative action and a demanding regulatory process, public pressure from constituent groups and other impediments that are all too familiar to anyone who is involved in processes that have a strong impact on the livelihoods and lifestyles of large groups of people.

Since May, a number of further actions have been taken by several States, and today I can report with pride that with only several exceptions the States have now achieved a 55-percent or greater reduction.

Senator CHAFEE. Mr. Alerpin, I have another panel after this and I have got to be out of here at 4:30. You have got to summarize here. What do you recommend?

Mr. ALPERIN. There is a chart that will show you this reduction, Mr. Chairman.

Senator CHAFEE. Why don't we go to your last page here, page 7. In summary.

Mr. ALPERIN. In summary, Mr. Chairman, we agree that continued action is definitely needed to prevent the further decline of this important fish. However, we feel very strongly that it is more appropriate that conservation measures for this species be developed and implemented by the States than a complete federally imposed moratorium is not the right way to address the problem at this time.

Our member States are very aware of the crisis in the fishery, are acting responsibly and timely in a very short period of time to strengthen management of this species within their jurisdictions.

Second, S. 2667 does not acknowledge that the Hudson River stock of striped bass, which can range widely along the coastline, apparently are in excellent condition and not at all in need of a moratorium.

Third, the interim restoration measures recommended by the ASMFC are based on the best estimate of the biologists and managers who work most closely with the fishery.

Senator CHAFEE. Here we had the people from NOAA saying they thought their grounds for listing this fish as endangered species——

Mr. ALPERIN [interposing]. I don't think it would have made it.

Senator CHAFEE. Or threatened species.

Mr. ALPERIN. You can't land 6 pounds of fish, Senator, and say it is endangered. I don't think they can sustain it. That is why it hasn't been imposed earlier, I believe. That is just my opinion on it.

Senator CHAFEE. I agree, except I think that the interim restoration measures recommended are based on the best estimates of the biologists and the managers.

In conclusion, what would you have us do? You would have us do nothing and leave it to you folks and what do you further recommend the Atlantic States Marine Fisheries Commission do?

Mr. ALPERIN. You have to recognize, we are not working in a vacuum. We are working with people from the National Marine Fish and Wildlife Service. They have contributed to this plan. They have accepted the plan. The money this plan was written through came from the National Marine Fisheries Service. They have oversight over it. They agree the plan was functional.

Senator CHAFEE. The 1981 plan has 55 percent.

Mr. ALPERIN. The 1981 plan is less than 55 percent.

Senator CHAFEE. And you think that is it as of now?

Mr. ALPERIN. I am not a soothsayer. I cannot foresee what will happen.

Senator CHAFEE. We have a meeting coming up in Savannah. What are you going to recommend?

Mr. ALPERIN. We will recommend to continue what we are doing, see what 55 percent accomplishes and I think having a moratorium is not the answer if we don't get good reproduction.

Senator CHAFEE. We all know that.

Mr. ALPERIN. We would like to see you support continuation of section 7.

Senator CHAFEE. We are supporting all of that; we are doing everything we can to increase the production, but meanwhile how about the taking of the fish that produce the eggs?

Mr. ALPERIN. Some fish are going to be taken anyway, incidental catches and otherwise. I don't know how many striped bass adult spawners you need to reproduce the population levels we have seen in these years.

Mr. Chairman, I studied these striped bass for 8 years in New York State. I also am a striped bass fisherman, and I fished for them in the 1930's when there weren't any and we didn't have pollution and didn't have overfishing, so it is a very complex problem, and I don't know that moratorium is the answer.

I think the States should be given the opportunity to listen to Maryland and see what they want to do at our October meeting. We have just known about this for a week. Maryland has reversed itself. Last spring, it was not in favor of moratorium.

Senator CHAFEE. Is Maryland a powerful voice in this commission?

Mr. ALERPIN. Maryland did produce 90 percent of the fish that were in the coastal migratory stock. It doesn't any more. The Hudson River exceeds it.

Senator CHAFEE. Thank you very much, Mr. Alperin, and I will look over your testimony and I appreciate your being here.

Mr. ALPERIN. I would like to leave a copy of the plan with you if you don't have one.

Senator CHAFEE. Fine. Leave it with Mr. Shimberg. Thank you both.

Dr. Rosen, Mr. Russell, Mr. Boyle, and Mr. Price.

STATEMENT OF RUDOLPH A. ROSEN, NATIONAL WILDLIFE FEDERATION

Mr. ROSEN. Mr. Chairman, my name is Rudolph Rosen. I am a fishery resource specialist with the National Wildlife Federation. Thank you for asking us to testify here to express our concern over

the status of the Atlantic coast bass. I ask our written statement also be placed in the record.

Senator CHAFEE. It shall be.

Mr. ROSEN. We strongly commend you for your continued efforts to ensure proper management of Atlantic coast fisheries. The bill we are addressing today is yet another example of your farsighted leadership on behalf of striped bass.

This bill provides the best long-term solution we have seen to problems in developing sound and comprehensive management programs for all coastal migratory stocks of fish.

The decline of coastal migratory striped bass on the east coast is symptomatic of a larger problem we face today as a result of coastal and inland habitat degradation and an inability to effectively manage coastal migratory fish.

A comprehensive approach like you propose to address the problem of interjurisdictional fishery management is needed as opposed to disjointed treatments for single species. Fish recovery and management efforts must take a broad approach because any one species exists as but part of a complex web of interrelated predator and prey, which in turn are dependent on a complex of biological, chemical, and physical factors in the environment.

In the Chesapeake Bay, where the status of striped bass is in greatest jeopardy, the important American shad and river herring fishery has collapsed already. Population declines of these species in the bay eclipse those of striped bass. However, we aren't dismissing the importance of striped bass, instead we are emphasizing the greater value of the complex of all coastal migratory fish.

Mr. Chairman, as requested, today our oral comments on provisions of the bill address only section 112, which is on striped bass. But we urge you to carefully consider our comments on the remainder of the bill. The concepts the bill embodies are critical to discuss further. As a nation, we cannot continue to make hard management decisions only when a crisis arises. We must look beyond a single species' present dilemma and solve the problem, not treat a symptom. We want to work with you.

We, too, share a sense of urgency which warrants immediate action on behalf of Atlantic coast striped bass.

We support imposing a harvest moratorium on any species where biological, physical, or economic factors indicate prohibition of harvest is necessary to protect the species or protect one or more other species dependent on that resource.

In addition, if the threat of imposing a harvest moratorium is necessary to motivate a State to implement needed conservation measures on a migratory species, then again we would approve enactment of a moratorium in such a recalcitrant State's waters to ensure proper management of shared resources. For Atlantic coast striped bass it is still unclear whether it will be necessary to federally force one or more States to implement coastwide conservation measures. But, in the absence of State action, we would agree that Federal preemptive action may be required as a last resort because declines in reproduction demand imposition of severe harvest restrictions.

Action to address the fishes' decline through scientific management has been proceeding under the auspices of the Atlantic States Marine Fisheries Commission's Striped Bass Management Board.

You already have heard about the board's 1981 striped bass management plan which has been implemented fully by all States except North Carolina, and about the recent amendments to the plan which reduce fishing effort by another 55 percent. That amendment has been implemented by all but 4 of the 13 States, and of these 4 States, Maryland just announced they will soon implement a harvest moratorium; New York has proposed reductions of 30 percent to 50 percent; Delaware a reduction of 10 percent to 15 percent; and Virginia a 40-percent to 50-percent reduction.

At this time, it is not appropriate to impose an immediate coastwide Federal harvest moratorium on the premise that the States are not implementing their management plan. But perhaps the most important factor against a Federal moratorium at this time is that scientists responsible for management of striped bass have determined that a complete coastwide moratorium is unnecessary for recovery of stocks

Senator CHAFEE. What scientist are you quoting?

Mr. ROSEN. Those scientists, the scientific statistical committee that advises striped bass management board of the commission. Those scientists include Marine Fishery scientists and Fish and Wildlife scientists. It is based on a meeting held of the Emergency Striped Bass Committee. I don't believe it was more than a month and a half ago.

Senator CHAFEE. Mr. Alperin, do you have a report of that group?

Mr. ALPERIN. That's the Emergency Striped Bass. I haven't seen a final report yet.

Senator CHAFEE. I thought they reported to you?

Mr. ALPERIN. That is not my group. It is National Marine Fisheries Service.

Senator CHAFEE. I am mixed up. I thought, Dr. Rosen, you said this is a report that was made to the Atlantic Coast Marine Fisheries——

Mr. ROSEN [interposing]. It was made at a meeting of the Emergency Striped Bass study and the scientists who were making the report are part of the S&S Committee of the Striped Bass Management Board of the commission. There is a good deal of overlap of the scientists on the Emergency Striped Bass.

Senator CHAFEE. Isn't the Emergency Striped Bass group—that is a section 7 study?

Mr. ROSEN. That is correct. There is overlap of scientists who advise the board who are on that study group.

Senator CHAFEE. All I am asking is can I get a copy of the report?

Mr. ROSEN. I can try and have a paper sent to you.

Senator CHAFEE. I am not sure where you are. I heard you just say the scientists conclude that a moratorium would not advance the population.

Mr. ROSEN. What I said——

Senator CHAFEE [interposing]. What page are you on?

Mr. ROSEN. I have my oral comments in front of me here. My written comments are more extensive. I have to check the comparable page.

Senator CHAFEE. That goes right to the heart of what we are talking about, it seems to me.

Mr. ROSEN. Let me put it——

Senator CHAFEE [interposing]. Page 8?

Mr. ROSEN. Page 5.

Senator CHAFEE. Page 8:

> Biological information on the species indicates that imposing a moratorium may be no more successful in protecting stocks than would a program of simply preventing overfishing and subjecting the fishery to good fishery management practices.

Mr. ROSEN. That is correct. The model and studies is based on current levels of recruitment, as poor as it is, indicate a 55-percent reduction would result in a sixfold increase of eggs deposited in a generation time and the figures I see on the studies conducted assume constant reproduction, which is poor.

Nonetheless, this management is based around recovering the stocks, albeit the recovery would be much slower than if a moratorium were imposed.

Senator CHAFEE. Go ahead.

Mr. ROSEN. Some States may elect to increase the level of protection they give the fish, or even establish a State moratorium on striped bass harvest.

The Atlantic States Marine Fisheries Commission's Management Plan to reduce harvest by well over 50 percent is consistent with the views of scientific managers that a level of harvest can be sustained by the population, yet provide for its recovery.

We suggest an alternate approach for the bill because management is a complex balance of biological, economic, social, and political factors. We suggest an approach that would assist the States.

No. 1, because of the urgent need to control overharvest, we suggest providing immediate Federal assistance to the States by temporarily enforcing all provisions under the interstate management plan in any State that hasn't already implemented that plan. That is the plan as amended. There are four of them so far. One of them is Maryland. This would be in place of implementing a moratorium of all States whether they are enforcing the plan or not. Since most States have already implemented the plan, initially the bill would affect only a few States.

Two, Federal enforcement of the commission's plan should continue in recalcitrant States for a period not to exceed 1 year from the date of the act's passage. However, at any time before the 1-year period ends, Federal enforcement may be ended if the State begins to enforce the plan.

In those states and only those States that do not implement and begin enforcing the plan by the end of a 1-year period, the Secretary should impose a moratorium on harvest and possession of striped bass on that State.

Fourth, upon enactment of the bill, the commission should begin immediate revision of their interstate management plan for striped bass according to provisions of sections 105 and 106 of the bill and follow implementation procedures listed in section 108, but in the

interim period, we feel provisions of the current commission plan should remain in force.

Senator CHAFEE. You have 1 more minute.

Mr. ROSEN. Although we are not recommending immediate imposition of a Federal moratorium at this time, we do recognize such action might be appropriate in the future. Individual States may find it most effective to manage their fishery by prohibiting harvest. In addition, scientists advising the commission may determine there is need for complete restriction of harvest. We support a harvest moratorium by a State or States if biological data or management needs dictate that to be the best available option for protecting the resource. In addition, we support Federal implementation of a moratorium if such management is determined to be needed to protect Atlantic coast striped bass and the States do not act accordingly.

Thank you, Mr. Chairman.

Senator CHAFEE. Well, you have me a little confused. I read at the bottom of page 10:

> In addition, we support Federal implementation of a moratorium if such management is determined to be needed to protect Atlantic coast striped bass.

If it is needed, you are for it. I can't argue with that. The question is how do you know whether it is needed?

Mr. ROSEN. This is a Federal moratorium. For our purposes, the scientists who have responsibility for management, advise the Striped Bass Management Board and have studies that indicate an absolute coastwide moratorium is unnecessary for a level of recovery at this time.

I will mention further that the speed of recovery would be increased over and above the plan if further reductions in harvest were attained. However, that depends on the egg and larva survivability remaining constant. It is that survivability of those aging young that we feel are a key and our resources would be best spent in dealing with the survival of the eggs and young as opposed to dealing with the harvest because if the habitat continues to be degraded and we have zero survival in rivers, it doesn't matter how many eggs are planted, if they don't survive, we don't have any fish.

Senator CHAFEE. Mr. Russell; I have to restrict people here, Mr. Russell. You have 4 minutes.

STATEMENT OF RICHARD RUSSELL, STRIPED BASS EMERGENCY COUNCIL

Mr. RUSSELL. I will talk about the reason why there should be a coastal moratorium on striped bass. The situation has changed somewhat—survival this year. Maryland officials were saying a year ago if things were bad in the bay, they should have a moratorium then. I am hoping that has not come too late. The Chesapeake, of course, accounts up to 90 percent of the striped bass that migrate along the Atlantic coast historically. The 2-year-old bass that still reside in the bay are still going to be subject to fishermen's nets until January 1. If those are fished hard this winter, it is going to take a longer time for stocks to recover, if ever.

The reason this moratorium should be implemented along the rest of the coast is that 90 percent of the bass scientists saw in the spawning ground of the Chesapeake last spring were 2-year-old fish. That means that only 10 percent of the striped bass from the Chesapeake remaining along the coast are the older fish, the mature fish, and the remainder of the adult spawning population, I believe, Senator, has to be protected to the utmost immediately.

Some people have argued a moratorium is not necessary; that acid rain and other environmental factors must be considered and, of course, they have to be. I am sure acid rain has a great deal to do with what is happening in the Chesapeake.

Not long ago I was in the Chesapeake area and talked to Joe Boone, senior biologist with the Maryland Tidewater Association, who has been doing the young-of-the-year survey since they began in 1954. He told me some interesting things. He gave an example of a pigweed growing up in his cornfield and after a while, the chemicals he used had no effect on it. He said in the Chesapeake every year we do see surviving healthy striped bass in very small numbers. These could be the few that differ genetically from their brothers and sisters and can survive what killed the others. They may in time be able to transmit this immunity to their offspring.

By leaving these fish alone for a period of time we may be able to build up a genetically superior bass. Yes, try and find out what the problems are; take care of them—acid rain, and so on, but protect the fish you do have and hope for the best because there is no other alternative.

In addressing Dr. Rosen's point, Dr. Philip Goodyear, a scientist with the Fish and Wildlife Service who testified in the House in March, said under the 55-percent reduction plan recommended by the commission, even if these were immediately implemented by every State, it would require several decades before the bass population can be restored to former levels, but with a moratorium it would take perhaps 10 to 12 years. We are talking about a tremendous difference in time before people can really be able to fish for striped bass as they could in the 1970's and 1960's.

A moratorium implemented by a single State, Rhode Island, last fall had immediately visible results this summer in Massachusetts waters. Many fishermen, including myself, observed more small migrating striped bass than in many years, most of which would otherwise have been caught in Rhode Island nets during the spring if there had not been a moratorium there.

You have Mr. Gordon's letter which he addressed to Representative Schneider in May.

Senator CHAFEE. I have a copy of that.

Mr. RUSSELL. In this letter he states how the Atlantic Commission strongly encourages the States to act if they do not appear ready to act in a decisive way in the near future. The other day, I talked to Randy Fairbanks about what Maryland has done and his attitude amazed me, Senator, because what he told me on the phone was that, well, he said, what Maryland has done is set back the cooperative management of the species a long way. They have taken unilateral action outside the Atlantic States Marine Fisheries Commission and if they can do that, I don't see why Rhode Island can't go back, everyone can do their own thing if one State

can take a unilateral action. He said, well, we can have a moratorium on everything, I suppose.

This is the type of attitude that very much upsets me as a responsible manager; he would oppose in essence what Maryland is trying to do because it is not quite compatible with the Atlantic Commission's idea. I would ask finally that you enact legislation which will request the coastal States to implement a moratorium as quickly as possible, and failing that, empower the Secretary of Commerce with the authority to intervene immediately on an emergency basis and mandate this.

Striped bass, in conclusion, is a mysterious creature and the motion it inspires fishermen who knows its meaning is an equally mysterious quality to behold. Our children should have the opportunity to know the wonder and struggle of purusing a bass and the internal fulfillment of catching one. Somehow, again mysteriously, I believe that the striped bass is our national fish, intrinsically linked to our Nation's story, past and future. I know that my own experience in coming to know the bass and fishing for bass is a vital part of my own soul and that the bass itself deserves an equal right to live. Man is not all that is happening on this planet. Surely, so noble a creature deserves our ultimate effort to keep it with us, and, Senator, I implore you to do the most you can.

Senator CHAFEE. That is very well said. Thank you, Mr. Russell. Mr. Boyle.

STATEMENT OF ROBERT BOYLE, PRESIDENT, HUDSON RIVER FISHERMEN'S ASSOCIATION, INC.

Mr. BOYLE. I am president of the Hudson River Fishermen's Association. There is no question the striped bass are alarmingly declining on the Atlantic coast. We support a moratorium on striped bass fishing everywhere along the coast, but an exception could be made for the Hudson River. That is not said out of greed on our part because the fishery is now closed because of PCB contamination, but the fact of the matter is Hudson River striped bass have maintained a steady level of production since 1969. The main reason why we are meeting here today is because of the decline of the coastal run.

The numbers of fish are declining largely because the larva die off and this is because the habitat becomes degraded.

Last April in Sports Illustrated, acid rain and immobilization of aluminum and other toxants were significantly responsible for the decline of striped bass and 60 other species of fish.

If this hypothesis is correct, and later investigations have only served to strengthen it, that leaves the Hudson River as the only major source of striped bass on the Atlantic coast. In essence, the Hudson is Noah's Ark.

I also support what Mr. Russell said you have to look at what stock is left in the Chesapeake now. There is language in your bill which, if implemented in accordance with its spirit, would avoid the kind of habitat destruction problems we faced over the years in the Hudson River, projects like Westway on the west shore of Manhattan Island.

New York State and the Federal Highway Administration want to landfill some 200 acres of prime striped bass nursery grounds. Based on our analysis of the environmental impact statement, that landfill could eventually result in the reduction of the Hudson River striped bass population by 30 percent to 60 percent.

The U.S. Fish and Wildlife Service and the National Marine Fisheries Service are on record of being totally opposed to Westway, but given the conduct of New York State officials thus far, the State is highly likely to come up with a Mickey Mouse mitigation plan that would look good on paper to the Corps of Engineers, the permitting agency, but disastrous in nature for the species this bill seeks to save.

The Hudson River Fishermen's Association urges that protection of important habitat and spawning rivers be written into the bill. You can have all of the moratoriums and management plans in the world, but if spawning grounds and nursery grounds are not rigorously protected, the management plans and the moratoriums are of scant value.

We would like to see language that would penalize a State that did not identify and protect important habitat spawning rivers, and the offending state be cut off from Federal funds or conservation and recreation until it conforms with the law.

I might interject here that I have no qualms at all of seeing you kick the States in the butt and knock heads because they played games too long, with New York in the lead.

Finally, the Hudson River Fishermen's Association urges every Senator and Representative who is concerned about striped bass to take up the fight against Westway. It makes no sense to talk about saving striped bass and at the same time permit the use of Federal funds for a landfill that would send torpedoes into Noah's Ark.

Senator CHAFEE. Thank you, Mr. Boyle. We certainly appreciate all you have done with your eloquent, persuasive writing. Can writing be eloquent?

Mr. BOYLE. Not mine. Argumentative, Senator.

Mr. BOYLE. Not mine. Argumentative, Senator. Machinegun.

Senator CHAFEE. Eloquent doesn't solely apply to the written word but in any event, it is persuasive what you have said and what you have written, and we commend you for it. Thank you for coming.

Mr. Price.

STATEMENT OF JIM PRICE, CHESAPEAKE BAY ACID RAIN FOUNDATION

Mr. PRICE. Thank you for inviting me to speak on this matter. I would like to support Senate bill 2667. I am representing two different groups. The situation I am in, one I testified before the State legislature in Maryland before coming over here on the Threatened Species Act and the fact State has declared fish threatened and a moratorium will be in place. To let you know a little bit of background, the oppositions in the State of Maryland in November 1983 declared threatened remain under Maryland law which fish clearly was defined as threatened. We had hearings in April and the fish was declared threatened last week.

Under that authority, Dr. Brown declared the moratorium. That is how it happened in Maryland up to this point. The Charter Boat Association that I represent, we reluctantly support this moratorium, but we only support it based on if the other States do something to improve the environment because this is a moratorium. No, that is not going to solve all the problems, but a moratorium is desperately needed throughout the entire range of striped bass on the Atlantic coast.

My personal experience and working with the fish daily, I tagged over a 1,000 in the past 5 years, I can personally assure you population in the bay right now is so low——

Senator CHAFEE [interposing]. Is what?

Mr. PRICE. So low, so few numbers for all intents and purposes, commercial fishing literally is dead in the Chesapeake Bay. We have a 1982 year class that I am working with now. Even though that was a little less than average year class, it is the only thing we have left to support a future fishery.

We would like to see the moratorium effective immediately. Our own future right now is to save—at least potentially to save that year class. I am going to ask the Governor to call an emergency session of the legislature to enact the moratorium immediately. He may not do it. I feel this is essentially to preserve what is left.

So the Charter Boat Association, contrary to what the commercial watermen said, although we have some feelings about the matter, we are going to support the State and the moratorium and we are going to support your efforts and we would like to see all the States have an immediate moratorium so we can develop a management plan. Without a sound management plan, nothing is ever going to work.

Senator CHAFEE. Doesn't Maryland have a moratorium now?

Mr. PRICE. No, it goes into effect January 1.

Senator CHAFEE. I see.

Mr. PRICE. Under the current law, Senate bill 47 passed last year, made the regulation law and those regulations expire December 31.

Senator CHAFEE. Gentlemen, I thank you all for coming. Some of you come from long distances. Mr. Russell, you come from Boston. I appreciate that. I was in Boston Monday and lending my persuasive cause to an eloquent cause. You can see what happened as a result of my appearance.

We thank you very much for coming here. All of you have contributed, and we want to move on this quickly. Thank you.

[Whereupon at 4:48 p.m., the subcommittee adjourned.]

[Statements and other material submitted for the record follow:]

TESTIMONY OF
THE HONORABLE
STEWART B. MCKINNEY

Mr. Chairman, and distinguished members of the committee, as the author of this measure's recently-approved House version, I would like to thank you for this opportunity to address S. 2668, legislation introduced by my good friend and colleague Sen. Lowell P. Weicker, Jr. (R-CT) to establish the Chimon Island National Wildlife Refuge in Connecticut. I would like to stress that this bill has the support of the Reagan administration, the entire Connecticut delegation, Governor William A. O'Neill (D-CT) and many state and national environmental organizations. Mr. Chairman, I realize that your panel is under severe time constraints and, on behalf of the citizens of Connecticut, I commend your efforts and foresight in bringing this important conservation measure before your Subcommittee.

S. 2668 would establish a four-site national wildlife refuge along Connecticut's southwestern coast. Encompassing 145 acres, the refuge would include the islands of Chimon, Sheffield and Falkner's as well as the ten-acre barrier beach at Milford Point. This measure would preclude the development of these critical coastal lands by establishing Connecticut's second national wildlife refuge. Creation of the refuge would serve as a great step in the furtherance of wildlife preservation not only in Connecticut, but also our nation. The lands to be protected are of national significance and clearly warrant inclusion in the federal system.

Chimon Island, Connecticut's most important heron nesting ground, is located less than one mile off Calf Pasture Point in Norwalk Harbor. Norwalk, a city of nearly 80,000, lies along Connecticut's southwestern coast within the most heavily populated, urbanized area of the northeastern United States -- the New York metropolitan area. Ironically, though, within its relative isolation this 6-acre island supports one of the three largest wading bird colonies on the northeast coast. In fact, in some years Chimon is the largest breeding colony in the Northeast. Experts agree that at least eight species of shore birds nest on the island.

Likewise, 60-acre Sheffield Island, the second largest island in the Norwalk group, offers excellent potential for nesting habitat and could provide vital roosting land for the expanding Chimon Island heron population. According to the Connecticut Audubon Society, Sheffield is home to American Oystercatchers and Double-Crested Cormorants. Neither of which nests in more than one other area in Connecticut.

Falkner's Island, presently owned by the U.S. Coast Guard, supports Connecticut's only significant population of state-threatened Roseate Terns, as well as our State's only major population of state-threatened Common Terns. Both species not only are threatened in Connecticut, but also in the whole of North America.

And finally, Milford Point is one of the few remaining nesting sites of the Piping Plover, a candidate for the federal threatened species list. Experts claim that the current U.S. population of the Piping Plover is between 1500 and 1800 breeding pairs. Connecticut is reported to have 17 such pairs; Milford Point claims 5 of the 17. The 10-acre barrier beach also is home to the largest population of state-threatened Least Terns.

The urgent nature of this legislation is highlighted by ongoing attempts to purchase these sites for coastal development projects. With land values in southwestern Connecticut among the highest in the country, and with a paucity

of undeveloped coastal land within a reasonable proximity to New York City, there is imminent danger that these lands will be lost for future generations. Serious development offers have been made for Chimon, Sheffield and Milford Point -- offers that, if accepted, would level an irreversible blow to the habitat of the Northeast's shore birds. Unless action is taken soon, this critical coastal habitat will be lost forever.

Sen. Weicker's legislation would establish only the second national wildlife refuge in Connecticut. The Salt Meadow National Wildlife Refuge in Westbrook, Connecticut, currently protects over 185 species of wildlife. Yet, while the refuge totals 183 acres, 177 of them were donated to the federal system. The other 6 acres were purchased for only $2,000. Today, only three-tenths of one percent of Connecticut land is federally owned, the smallest percentage of government-owned land in the fifty states. Our State has had very little federal help in establishing parks and refuges. But action taken today by this committee could reverse that trend.

We in Connecticut have waited 15 years for a chance to create our second federal refuge. Now, due to prompt congressional action, we are very close to realizing that goal. On August 2, the House approved the fiscal year 1985 Interior Appropriations bill which included $2.4 million for the refuge's acquisition. And on September 11, the full House unanimously approved H.R. 7164, legislation which I introduced to authorize the refuge. Since the entire $2.4 million will be nontax money taken from funds not otherwise appropriated from the Land and Water Conservation Fund, and therefore will not add to our mounting federal deficit or be a drain on the U.S. Treasury, I am eager to see this measure become law.

Also, Mr. Chairman, at this time I would like to state my support for many of the provisions of the Chimon Island National Wildlife Refuge Act as approved by the House. Necessary and important modifications were made during markup in the Subcommittee on Fisheries, Wildlife Conservation and the Environment which should be retained in the legislation's final draft. Mr. Chairman, these changes are technical in nature and should not engender any controversy. First, the purposes for which the refuge is to be established were added to the House bill. Second, the Coast Guard is given responsibility to operate and maintain the lighthouse on Falkner's Island. Third, the spelling of Falkner's Island is corrected in the House-passed bill. And fourth, the name of the refuge is changed to the Connecticut Coastal National Wildlife Refuge to reflect the fact that a number of coastal sites will be included.

Thank you for allowing me the opportunity to testify today on what I believe is a vitally important conservation measure.

THE WHITE HOUSE

WASHINGTON

September 17, 1984

Dear Stew:

At your request, the Administration has reviewed its position on H.R. 5464, the Connecticut Coastal Wildlife Refuge Act.

Although this area is not currently at the top of the priority list of valuable coastal and wetland areas that we plan to acquire for the national wildlife refuge system, we agree with you that it is indeed a productive region for shore and wading birds. As such, its protection in its natural state should be a goal that we all share.

The Administration would thus support its authorization for inclusion in the national wildlife refuge system and its eventual acquisition.

With best wishes,

Sincerely,

M. B. Oglesby, Jr.
Assistant to the President

The Honorable Stewart B. McKinney
House of Representatives
Washington, D.C. 20515

STATEMENT BY U.S. SENATOR LOWELL WEICKER, JR.
BEFORE THE SENATE ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
REGARDING S. 2668, THE CHIMON ISLAND WILDLIFE REFUGE BILL

WEDNESDAY, SEPTEMBER 19, 1984

MR. CHAIRMAN, I HAVE COME BEFORE THE SUBCOMMITTEE TODAY TO EXPRESS MY ENTHUSIASTIC SUPPORT FOR S. 2668, A BILL TO ESTABLISH THE CHIMON ISLAND NATIONAL WILDLIFE REFUGE. THIS LEGISLATION AND ITS COMPANION BILL, H.R. 5464, WHICH HAS ALREADY BEEN PASSED BY THE HOUSE OF REPRESENTATIVES, HAVE THE FULL SUPPORT OF THE CONNECTICUT CONGRESSIONAL DELEGATION, GOVERNOR O'NEILL AND THE ADMINISTRATION. IN FACT, I WAS NOTIFIED LATE MONDAY AFTERNOON OF THE PRESIDENT'S ENDORSEMENT OF THE LEGISLATION AND I WOULD LIKE TO SUBMIT A LETTER SUMMARIZING THE ADMINSTRATION'S POSITION ON THE BILL FOR THE SUBCOMMITTEE'S REVIEW.

MR. CHAIRMAN, S. 2668 SEEKS TO PROTECT 4 AREAS TOTALLING 144.5 ACRES IN CONNECTICUT AND LONG ISLAND SOUND: MILFORD POINT; CHIMON, SHEFFIELD, AND FALKNER'S ISLANDS. THESE AREAS PROVIDE CRITICAL BREEDING HABITATS FOR SEVERAL SPECIES OF COASTAL BIRDS RARE TO THE STATE. THE IMPORTANCE OF DESIGNATING THESE LANDS AS WILDLIFE REFUGE CANNOT BE OVER-EMPHASIZED. AN INCREDIBLE AMOUNT - 97% - OF CONNECTICUT'S COASTLINE HAS BEEN DEVELOPED, AND THIS HIGH RATE OF COMMERCIAL ACTIVITY HAS HAD A TREMENDOUS IMPACT ON THE COASTAL ECOSYSTEM. CONSEQUENTLY, THERE IS A PAUCITY OF UNDISTURBED REAL ESTATE, LAND THAT IS NEEDED BY SEVERAL SPECIES OF BIRDS FOR NESTING AND FEEDING. WE MUST PROTECT THE UNIQUE QUALITIES OF THESE ISLANDS AND THE DIVERSITY OF BIRD LIFE THEY SUPPORT. THE IMPACT OF ANY DEVELOPMENT WOULD HAVE SIGNIFICANT AND IRREVERSIBLE EFFECTS ON THEIR WILDLIFE POPULATIONS.

MR. CHAIRMAN, SEVERAL MINOR AMENDMENTS WERE OFFERED TO THE HOUSE BILL WHICH I FEEL ARE APPROPRIATE FOR INCLUSION IN S. 2668. BRIEFLY, THESE AMENDMENTS:

1) CHANGED THE NAME OF THE REFUGE FROM THE CHIMON ISLAND NATIONAL WILDLIFE REFUGE TO THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE.

2) ADDED A NEW SECTION ENTITLED PURPOSES, UNDER SECTION 1(B), WHICH OUTLINES THE CONSERVATION, MANAGEMENT, EDUCATION AND RESEARCH ASPECTS OF THE REFUGE.

3) INCLUDED A CLAUSE IN SECTION 3 (B)(B)(2) PROVIDING AUTHORITY FOR THE COAST GUARD TO OPERATE AND MAINTAIN THE LIGHTHOUSE ON FALKNER'S ISLAND.

MR. CHAIRMAN, IT IS MY HOPE THAT THE SUBCOMMITTEE WILL MARK-UP AND FAVORABLY REPORT S. 2668 AT THE EARLIEST POSSIBLE DATE SO THAT THE FULL SENATE WILL HAVE AN OPPORTUNITY TO ACT ON THE BILL DURING THE VERY SHORT PERIOD OF TIME THAT REMAINS DURING THIS SESSION. I FIRMLY BELIEVE THAT IT IS INCUMBENT ON THE CONGRESS TO PASS THIS MEASURE AND PROVIDE THE PROTECTION SO URGENTLY NEEDED BY THE WILDLIFE IN CONNECTICUT'S COASTAL AREAS.

THE WHITE HOUSE

WASHINGTON

September 17, 1984

Dear Senator Weicker:

As a result of recent conversations regarding S. 2668, the Connecticut Coastal Wildlife Refuge Act, the Administration has reviewed its position on this bill.

Although this area is not currently at the top of the priority list of valuable coastal and wetland areas that we plan to acquire for the national wildlife refuge system, it is indeed a productive region for shore and wading birds. As such, its protection in its natural state should be a goal that we all share.

The Administration would thus support its authorization for inclusion in the national wildlife refuge system and its eventual acquisition.

With best wishes,

Sincerely,

M. B. Oglesby, Jr.
Assistant to the President

The Honorable Lowell P. Weicker, Jr.
United States Senate
Washington, D.C. 20510

II

98TH CONGRESS
2D SESSION

S. 2668

To establish the Chimon Island National Wildlife Refuge.

IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, APRIL 30), 1984

Mr. WEICKER (for himself and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To establish the Chimon Island National Wildlife Refuge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the northeast United States;

(2) Milford Point, a narrow 10-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plover and also supports the State's largest population of least terns;

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(3) Faulkner's Island supports the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern;

(4) Sheffield Island is an excellent potential nesting habitat for heron.

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "refuge" means the Chimon Island National Wildlife Refuge.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "selection area" means the lands and waters of Chimon Island, Milford Point, Faulkner's Island, and Sheffield Island in the State of Connecticut.

ESTABLISHMENT OF REFUGE

SEC. 3. (a) SELECTION.—(1) Within 90 days after the effective date of this Act the Secretary shall—

(A) designate approximately 144.5 acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge; and

(B) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and avail-

able for public inspection at offices of the United States Fish and Wildlife Service.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph 1(B) as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B).

(2) The Secretary of the department in which the Coast Guard is operating shall transfer jurisdiction over Faulkner's Island, Connecticut, to the Department of the Interior.

(c) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–

668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Department of the Interior—

(1) $2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge; and

(2) not to exceed $15,000 for the fiscal year in which the refuge is established for the development, maintenance, and operation of the refuge.

These sums are to remain available until expended.

EFFECTIVE DATE

SEC. 6. This Act shall take effect October 1, 1984.

98TH CONGRESS
2D SESSION

H. R. 5464

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 1984

Received; read twice and referred to the Committee on Environment and Public Works

AN ACT

To establish the Connecticut Coastal National Wildlife Refuge, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSES

SECTION 1. (a) FINDINGS.—The Congress finds that—

(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the Northeast United States;

(2) Milford Point, a narrow ten-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plover;

(3) Falkner's Island supports the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern; and

(4) Sheffield Island is an excellent potential nesting habitat for heron.

(b) PURPOSES.—The purposes for which the Connecticut Coastal National Wildlife Refuge is established are—

(1) to enhance the populations of herons, egrets, terns, and other shore and wading birds within the refuge;

(2) to encourage natural diversity of fish and wildlife species within the refuge;

(3) to provide for the conservation and management of all fish and wildlife, within the refuge;

(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(5) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

DEFINITIONS

SEC. 2. As used in sections 1 through 5 of this Act—

(1) The term "refuge" means the Connecticut Coastal National Wildlife Refuge.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "selection area" means the lands and waters of Chimon Island, Milford Point, Falkner's Island, and Sheffield Island in the State of Connecticut.

ESTABLISHMENT OF REFUGE

SEC. 3. (a) SELECTION.—(1) Within ninety days after the effective date of this Act, the Secretary shall—

(A) designate approximately one hundred and forty-five acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge;

(B) prepare a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with

donated or appropriated funds, or exchange) lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B).

(2) The Secretary of the department in which the Coast Guard is operating shall transfer jurisdiction over Falkner's Island, Connecticut, to the Department of the Interior; except that the Coast Guard shall remain responsible for the operation and maintenance of the lighthouse on the island.

(c) ESTABLISHMENT.—The Secretary shall establish the national wildlife refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under section 3 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Department of the Interior $2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge, which sums shall remain available until expended.

ATCHAFALAYA BASIN

SEC. 6. The lands and waters and interests therein acquired in the Atchafalaya Basin with funds provided under Public Law 98–396 shall be considered to be an area within the National Wildlife Refuge System; except that (1) the area shall be administered by the State of Louisiana after a mutually satisfactory cooperative agreement regarding the administration of the area is entered into with the United States Fish and Wildlife Service, and (2) during such time as the State of Louisiana administers the area, it shall be treated as a fee area for purposes of applying section 401 of the Act commonly referred to as the Refuge Revenue Sharing Act (16 U.S.C. 715s) to the local governments concerned.

EFFECTIVE DATE

SEC. 7. This Act shall take effect October 1, 1984, or on the date of its enactment, whichever date is later.

Passed the House of Representatives September 11, 1984.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

STATEMENT OF HON. WILLIAM R. RATCHFORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. Chairman and members, I applaud you for holding this hearing to consider creation of the Connecticut Coastal National Wildlife Refuge, and hope you will see fit to move legislation authorizing it as quickly as possible.

At this time, the House of Representatives has passed authorizing legislation, H.R. 5464, and the House-passed version of H.R. 5973, fiscal year 1985 appropriations for the Department of the Interior and related agencies, contains $2.5 million in Fish and Wildlife Service land acquisition funds for this refuge, pending enactment of authorizing legislation. I was pleased to sponsor this latter provision.

Thus, establishment of this important refuge is close to becoming a reality. I join virtually every public official from Connecticut, and no doubt most of the people of the State as well, in urging you to take this proposal one important step further.

While Connecticut enjoys the reputation along with the five other New England States of being a place of great scenic beauty with abundant wildlife resources, I would note that these attributes are being increasingly threatened by encroachment from commercial and residential development, property along the Long Island Sound is especially vulnerable.

This area serves as natural habitat for a variety of migratory and wading birds. It is an essential habitat for much of the population of tern, plover, and other species.

Once these properties fall victim to the bulldozer, their value as a bird habitat is gone, perhaps forever. I do not think that is a price anyone in Connecticut wants to pay.

Thus, the people of Connecticut and the public officials who serve them come to the committee to ask your approval of this proposed refuge. We view it as a life-saving step for an attribute of our State that makes living there so worthwhile, the natural beauty and abundance of wildlife along the Long Island Sound.

Thank you, Mr. Chairman and members of the committee, for considering my views on this important matter.

STATEMENT OF ROBERT A. JANTZEN, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S SENATE, ON H.R. 5464, TO ESTABLISH THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE, AND S. 2668, TO ESTABLISH THE CHIMON ISLAND NATIONAL WILDLIFE REFUGE.

September 19, 1984

Mr. Chairman, it is a pleasure to appear before you today to discuss H.R. 5464, as passed by the House, and S. 2668.

These bills would provide for the establishment of a National Wildlife Refuge comprising 4 units and 145 acres along the Connecticut coast, primarily for the conservation of migratory birds. The Secretary of the Interior is directed to acquire these sites for inclusion in this refuge, with the exception of Falkner Island which the Coast Guard is directed to transfer to the Department of the Interior. The bills would authorize $2.5 million from the Land and Water Conservation Fund (LWCF) for acquisition of the refuge. The House bill would designate the refuge as the Connecticut Coastal NWR; the Senate bill, as introduced, refers to it as the Chimon Island NWR. We would prefer the former, to reflect that the refuge would encompass areas spanning the length of Connecticut's coast.

While the areas identified for inclusion in this refuge are not currently at the top of our priority list for refuge acquisitions, they do have significant value for wildlife. Accordingly, we would support the passage of legislation authorizing acquisition and establishment of this refuge.

Falkner Island is an isolated island of approximately 4.5 acres. It supports Connecticut's only significant nesting population of the roseate tern, with approximately 134 nesting pairs in 1984. This bird is considered rare and endangered by the State and is a candidate species for Federal protection under the Endangered Species Act. The colony at Falkner Island is the third largest in North America. The island also supports approximately 80 percent of the State's nesting population of common terns. This colony of about 1950 pairs is one of the largest in the Northeast. These two species were plentiful until about 1900 when hunting for the millinery trade drastically reduced their numbers. With various protective measures taken in the early part of this century the populations slowly increased until the 1940's and 50's when they began again to decline. Human intrusion and increasing competition with gulls have created a shortage of optimum nesting islands and have contributed to the decline of these species.

The Coast Guard currently owns Falkner Island and operates a lighthouse there for navigational assistance. The Fish and Wildlife Service has worked closely with them on a management plan for the island to enhance use by the roseate and common terns. This legislation is timely because the Coast Guard is expected to declare Falkner Island excess in the near future. With continued access to and operation and maintenance of the lighthouse and dock by the Coast Guard, we would support the provision contained in this legislation directing transfer of jurisdiction over the island to the Department of the Interior.

Milford Point is one of the few nesting areas that remain in the State for piping plovers, a candidate for Federal protection under the Endangered Species Act. It is a 7-8-acre barrier spit, located at the mouth of the Housatonic River, protecting

the marshes of the State's 845-acre Wheeler Wildlife Management Area located behind it from direct wave action. Given its proximity to the larger State management area, acquisition and management by Connecticut might also be considered.

Chimon Island, an island of 70 acres located approximately 1.5 miles off Norwalk, has supported the largest heron rookery in Connecticut for many years. It is one of the largest wading bird colonies in the Northeast. In addition, the island and adjacent waters provide wintering habitat for brant and black ducks, species of special concern to the Service.

One mile west of Chimon Island, lies Sheffield Island. Like Chimon Island, Sheffield Island provides shelter and feeding habitat for black ducks and brant during the winter months. It also currently supports a small nesting population of herring gulls. It is doubtful that this island would realize full migratory bird nesting potential absent appropriate wildlife management measures. Management of current recreational use by boaters and sunbathers would be necessary. Conflicts between gull populations and other wading and shorebirds would need to be evaluated and controlled. Wildlife values could be substantially increased; for example, the island offers possible osprey breeding opportunities.

In conclusion, these areas provide important habitat for migratory birds, including several species of national concern. We therefore support enactment of legislation to authorize acquisition and establishment of this refuge.

Atchafalaya Basin

Let me turn briefly to section 6 of H.R. 5464. As passed by the House, this section provides that lands and waters and interests therein acquired in the Atchafalaya Basin, Louisiana, with funds provided by the FY 1984 supplemental appropriations bill (P.L. 98-396), would be considered to be an area within the National Wildlife Refuge System except that it will be managed by the State after a cooperative agreement is reached with the U.S. Fish and Wildlife Service. The section also provides for refuge revenue sharing payments to the local governments concerned. We would not object to this provision for cooperative Federal-State management if it is amended to address our concerns.

The Atchafalaya River Basin encompasses this Nation's largest remaining forested wetlands complex. The river floodway contains nearly one-half million acres of hardwood swamp, intermingled with overflow lakes, bayous and streams, which together support tremendous fish and wildlife populations. At least 300 species of birds occur in the floodway, including thousands of wintering ducks and coots and the largest wintering population of American woodcock in North America. Over 50,000 egrets, ibises, and herons nest in the floodway as do large numbers of wood ducks. Resident animals including white-tailed deer, rabbits, squirrels, turkeys and black bear are abundant, as are such furbearers as bobcat, fox, nutria, mink, muskrat, raccoon and otter. Over 90 species of fish, crawfish, crabs and shrimp support an extremely productive sport and commercial fishery in the Atchafalaya floodway. The estimated annual value of the floodway's fish, wildlife and related recreational resources is well over $100 million.

The history of the Atchafalaya Basin project dates back more than 20 years with the first substantial involvement of the Department of the Interior, represented by the Fish and Wildlife Service, occurring in 1972. At that time the Corps of Engineers and other Federal and State agencies were directed by Congress to re-study the Mississippi River and Tributaries project with a view toward improving the environmental attributes of the Atchafalaya Basin while maintaining its function in flood control.

Representatives of the Corps of Engineers, Fish and Wildlife Service, Environmental Protection Agency and State of Louisiana began efforts to develop a plan for flood control and environmental protection which would meet with the approval of the widest possible array of public and private interests. After more than a decade of in-depth planning a consensus began to emerge. This plan provided for: 1) flood control improvements, but not at expense of wetlands protection, 2) for wetland protection, but not to the detriment of flood control, and 3) for the least possible adverse impact upon private property owners while still providing for flood control and wetland protection.

The plan that was developed by Federal and State agencies called for fee title acquisition from willing sellers of about 100,000 acres and habitat preservation easements on about 367,000 acres. The State of Louisiana has recognized the need to participate in this acquisition program and has been extremely active and innovative. The State secured a fee title wetland donation of approximately 50,000 acres. They have proposed that half of the remaining 50,000 acres earmarked for fee title purchase be at State expense and the other half at Federal expense. They have worked with private landowners, have identified willing sellers, and have already purchased in excess of 10,000 acres in an effort to consummate the overall

plan while identified willing sellers are still present. Because of the vastness of the Basin and the need to assure that National as well as local resource values be preserved, this Department believes that it is appropriate for Federal, as well as State agencies, to be involved and share the cost of acquiring this important river swamp.

The FY 1984 supplemental appropriations bill, signed by the President on August 22, 1984, provides $10 million to the Fish and Wildlife Service from the Land and Water Conservation Fund for acquisition in the Atchafalaya. This will provide funding for Federal participation in the effort, and we will continue to work with the Army Corps of Engineers to pursue additional habitat protection efforts.

Conservation of the Atchafalaya is a uniquely cooperative effort and we do not object to the intent of this legislation. The concept makes good management sense. State-owned lands will be intermingled with Federal lands and a cost-effective solution to the problem would be single agency management on the ground.

We believe the appropriate way to achieve this goal would be creation of a National Wildlife Refuge consisting of those lands acquired by the Fish and Wildlife Service, with jurisdiction resting with the Secretary of the Interior and on-the-ground management by the Louisiana Department of Wildlife and Fisheries pursuant to a cooperative agreement and detailed operating plans. Primary jurisdiction by the Department of the Interior is necessary for two reasons. First, acquisition will be by the U.S. Fish and Wildlife Service using the Federal portion of the Land and Water Conservation Fund. Second, the Refuge Revenue Sharing Act provides payments in lieu of taxes to local governments only where the area is solely or primarily administered by the Fish and Wildlife Service.

This concept is similar to that contained in H.R. 5464 except that the provisions of the bill should be clarified to ensure that:

- o the lands in question are designated as a National Wildlife Refuge under primary jurisdiction of the Fish and Wildlife Service;
- o the U.S. Fish and Wildlife Service is authorized to enter into a cooperative agreement with the State of Louisiana for management of the area;
- o the State of Louisiana will assume all operating costs associated with the cooperative agreement; and
- o the cooperative agreement and subsequent management of the area will be subject to the provisions of the National Wildlife Refuge System Administration Act and other applicable Federal laws, rules and regulations.

In closing, Mr. Chairman, let me emphasize that we hope to continue working closely with the State of Louisiana and other Federal agencies for the conservation of lands and waters in the Atchafalaya Basin. This concludes my prepared statement and I would be pleased to answer any questions you may have.

39-806 O - 84- 5

STATEMENT OF ROBERT JANTZEN, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION, ON S. 1874/H.R. 1438, TO PROVIDE FOR THE RESTORATION OF THE FISH AND WILDLIFE RESOURCES OF THE TRINITY RIVER BASIN

SEPTEMBER 19, 1984

Mr. Chairman, I appreciate this opportunity to present the views of the Department of the Interior on S. 1874 and H. R. 1438, bills intended to ensure the conservation of the fish and wildlife resources of the Trinity River Basin.

The Trinity River, a major tributary of the Klamath River, originates 10 miles southwest of Mt. Shasta in the rugged Salmon-Trinity Mountains of northwestern California. As it flows 130 miles through Trinity and Humboldt Counties, it drains a forest-covered watershed encompassing nearly 3000 square miles, and then enters the Klamath about 40 miles upstream from the Pacific Ocean.

The historical importance of the Trinity's anadromous fishery resource is well known. At one time it contributed between 1/3 and 1/2 of the total number of salmon originating from the Klamath River Basin. Salmon provides one-third of the economic value of the California commercial fishery, and the North Coast constitutes the heart of the industry. Chinook salmon and steelhead trout are major contributors to the sport fishery. The Hoopa and Yurok Indian tribes have depended upon the salmon and steelhead fisheries for subsistence, ceremonial and economic needs.

Due to several causes, over the last 20-25 years, the salmon and steelhead stocks of the Trinity River seriously declined. Construction of the Trinity River Division of the Central Valley project in the late 1950's and early 1960's resulted in the loss of 59 miles of chinook salmon spawning and nursery habitat, 109 miles of spawning and rearing habitat for steelhead trout, and an undetermined amount of habitat for coho salmon. Operation of the project, which began in 1963, reduced flows below the diversion by about 80 percent. Peak flows that formerly occurred with the spring thaw were significantly reduced or eliminated as the natural runoff of the Trinity River was diverted to the Sacramento Valley through a series of dams, tunnels and power plants.

Sediments from natural erosion, logging, road construction and other developmental activities that had formerly been flushed downstream by high runoffs during the spring months began to accumulate under controlled project flows. In the portion of the river below Lewiston Dam, sediment deposition resulted in filling of pools used as feeding and resting habitat, and clogging of the gravel beds used for spawning. The dam also prevented the natural influx of gravel from upstream sources, thus reducing the quality of natural downstream spawning habitat.

Other problems have contributed to current conditions, including increased sediment loading. Removal of streamside vegetation has increased water temperatures. In addition, sustained high harvest pressure from ocean commercial and inland Indian and sport fishing practices on the fewer adults being produced has also contributed to the decline of the natural fish runs on the Trinity.

The cumulative impacts of these activities has been severe. It is estimated by the Fish and Wildlife Service that approximately 80 percent of the chinook salmon and 60 percent of the steelhead trout that existed prior to 1963 have been eliminated. In addition to the immediate impacts upon the once flourishing commercial, sport and Indian fishery, this situation has had direct economic impacts on the State and the nation, as a harvest which could be valued at over $31 million annually has been substantially reduced.

Toward the end of the 1960's as the downward trend in the river's salmonid resource became fully apparent, efforts began to identify causative factors and to develop a corrective program. The earliest efforts were undertaken in 1967 when the California Resources Agency began to study the accumulation of streambed sedimentation. In 1974, the 13-member Trinity River Basin Fish and Wildlife Task Force was formed by involved Federal, State and local entities. The Task Force initiated several studies and interim activities aimed at reducing the decline in the resource, including watershed revegetation; restoration of riffle and pool habitat; tributary streams improvement; hatchery operation assessment; sediment transport and removal studies; and fish population, migration and harvest assessments.

In 1976 Federal funds were provided to the Task Force to continue this interim effort and to develop a long-term management program for the Trinity River Basin. In March 1982, the Task Force published the final "Trinity River Basin Fish and Wildlife Management Program". The goal of the program is to restore the river's anadromous fishery, consistent with the 1955 Trinity River authorizing legislation that directs the Secretary of the Interior "adopt appropriate measures to insure the preservation and progagation of fish and wildlife..."

The Task Force identified 3 main causes of the fishery decline: insufficient stream flow, excessive stream bed sedimentation, and inadequately regulated harvest. The revised Management Program developed by the group sets forth 11 action items to be undertaken over a 10 year period to address these problems. Included are rehabilitation of fish and wildlife habitat and monitoring of stocks in the basin. The plan seeks to utilize artificial production to compensate for fishery losses which occurred above Lewiston Dam, while restoring full natural production to the river and its tributaries downstream from Lewiston Dam. Corallary objectives include the development of harvest management and watershed protection measures to protect the fishery once restored. The Task Force estimated the cost of the Program at $33 million in capital expenditures over 6 years and $2.2 million in operation and maintenance for 10 years.

Some progress has been made in implementing the Task Force's recommendations. One action item was to stop the sediment yield contribution from Grass Valley Creek, identified as the main source of sand adversely impacting the Trinity River. Legislation has already been approved by Congress (PL 96-335) authorizing the construction of a sand-dredging system on Grass Valley Creek. The cost of that action is separate from those costs identified in this bill. Additionally, the State of California has made many contributions over the past decade to the restoration of the fishery, such as the construction of interim rearing ponds and riffle and pool areas. The Bureau of Reclamation has expended approximately $8.2 million in the Program.

Concurrent with the efforts of the Task Force, the Department of the Interior has taken steps to restore streamflows below Lewiston Dam. In 1981 the Fish and Wildlife Service and Bureau of Reclamation signed an agreement whereby flows in the Trinity have been increased to 287,000 acre - feet in all but dry or critically dry years. After appropriate habitat improvements have taken place, the agreement stipulates increasing the flows to 340,000 acre-feet in all but dry or critically dry years. Under the agreement, FWS will undertake a 12 year evaluation of the effectiveness of alternative flows in rebuilding the river's salmon and steelhead stocks.

Although these actions are being undertaken, the heart of the Management Program, the habitat restoration efforts, would be difficult to undertake without Congressional directive. For this reason, we would support enactment of S. 1874, if it is amended in accordance with our recommendations below. H.R. 1438, as reported by the House Committee on Merchant Marine and Fisheries, includes provisions that are very similar to what we are recommending.

We are concerned that S. 1874 would make non-reimbursable and non-refundable the cost for construction of facilities, estimated to be $34 million at May 1982 prices, plus an estimated $2.4 million annually for operation, maintenance and monitoring of the facilities. Since the damage to the Trinity River fishery is a result of many Federal, state and local actions, we do not believe that all of the cost of restoration should be borne by the U.S. taxpayers. Accordingly, I would like to highlight our recommendation that S. 1874 be amended to require that the cost be shared 35 percent Federal/non-reimbursable, 50 percent allocated among the irrigation, power, municipal and other users, and 15 percent State or non-Federal entity. We would like to note that discussions have been intiated with the State of California regarding cost-sharing of the management program.

In addition, we recommend that language be included in the bill to assure that implementation of management program action items that fall outside the Secretary's jurisdiction be accomplished coincident with actions contained in this bill. We are submitting proposed language to reflect our recommendations.

This concludes my prepared statement. I would be pleased to answer any questions.

Proposed Department of the Interior Amendments to S. 1874

On page 3, line 12, after "Secretary" insert "in consultation with the State of California (hereinafter State)".

On page 3, line 14, between "Basin" and "designed" insert the following: "as an integral part of the Trinity River Division, Central Valley Project. The program shall be".

On page 4, line 1, strike the word "modernize and otherwise".

On page 4, line 5, strike the word "and" and replace the period with ", and (C) the impact of water releases below Lewiston Dam from the Trinity River Division, Central Valley Project".

On page 4, line 6, after "Such other activities" add "and studies".

On page 4, line 10, strike "basis for" and insert in lieu thereof "guide in formulating".

On page 4, lines 6, 9 and 16, after "Secretary" insert "in consultation with the State".

On page 4, between lines 20 and 21, add a new subsection (c) to read as follows:

> (c) To facilitate implementation of actions that fall outside the Secretary's jurisdiction, the Secretary shall enter into a Memorandum of Agreement with agencies represented of the Task Force. Such agreement shall be designed to ensure coordinated implementation of those actions contained in the management program that are identified as being the primary responsibility of Task Force members other than the Secretary.

On pages 7 and 8, strike all of section 4 and insert in lieu thereof the following:

> Sec. 4. (a) There is authorized to be appropriated -
>
> (1) Except for the costs incurred for the activities described in section 2(a)(1)(c), for the construction authorized in this act, the sum of $34,000,000 or, if there is an increase or decrease in the engineering cost indexes applicable to the types of construction involved between the months of May 1982, and the date of enactment of any appropriation for such construction, such sum adjusted by such increase or decrease.
>
> (2) For the cost of the operation, maintenance and monitoring authorized by this Act, the sum of $2,400,000 annually for a 10-year period beginning on October 1, 1984.

(b)(1) Funds authorized to be appropriated for the construction of the Grass Valley Creek debris dam and sediment dredging (authorized by P.L. 96-335) shall be financed and repaid on the same basis as provided in subsection (b)(2) of this section.

(2) No funds appropriated pursuant to this act or pursuant to P.L. 96-335 as herein provided shall be expended until the State or any other non-Federal entity shall have executed a written agreement acceptable to the Secretary. Such agreement shall require the State or non-Federal entity to provide 15 percent of the total funds authorized by this act, and the funds provided by the State or non-Federal entity shall constitute a part of the sums authorized to be appropriated in section 4(a)(1) and 4(a)(2) hereof. Fifty percent of the total funds authorized by this act shall be reimbursable costs allocated among the irrigation, power, municipal and industrial uses, and flood control and navigation purposes of the Trinity River Division, Central Valley Project, and 35 percent of the total funds authorized shall be nonreimbursable costs to the Federal Government.

(3) Nothing in this act shall be construed to limit any pre-existing authorities of the Secretary under Reclamation Law.

II

98TH CONGRESS
1ST SESSION

S. 1874

To provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 19), 1983

Mr. CRANSTON introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) the construction of the Trinity River division of the Central Valley project in California, authorized by the Act of August 12, 1955 (69 Stat. 719), has substantially reduced the streamflow in the Trinity River Basin and badly damaged pools, spawning gravels, and rearing areas causing a drastic reduction in the

anadromous fish populations and a decline in the scenic and recreational qualities of such river system;

(2) the loss of land areas inundated by two reservoirs constructed in connection with such project has caused substantial reductions in the populations of deer and other wildlife historically found in the Trinity River Basin;

(3) the Act referred to in paragraph (1) of this section directed the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") to take appropriate actions to insure the preservation and propagation of such fish and wildlife and additional authority was conferred on the Secretary under the Act approved September 4, 1980 (94 Stat. 1062), to take certain actions to mitigate the impact on fish and wildlife of the construction and operation of the Trinity River division;

(4) activities other than those related to the project have also had an effect on fish and wildlife populations in the Trinity River Basin and are of such a nature that the cause of any detrimental impact on such populations cannot be attributed solely to such activities or to the project;

(5) a fish and wildlife management program has been developed by an existing interagency advisory

group called the Trinity River Basin Fish and Wildlife Task Force; and

(6) the Secretary requires additional authority to implement a basin-wide fish and wildlife management program in order to achieve the long-term goal of restoring fish and wildlife populations in the Trinity River Basin at the level existing immediately before the start of the construction of the Trinity River division.

TRINITY RIVER BASIN FISH AND WILDLIFE MANAGEMENT PROGRAM

SEC. 2. (a) Subject to subsection (b), the Secretary shall formulate and implement a fish and wildlife management program for the Trinity River Basin designed to restore the fish and wildlife populations in such basin to the levels existing immediately prior to the start of the construction referred to in section 1(1) and to maintain such levels. The program shall include the following activities:

(1) The design, construction, operation, and maintenance of facilities to—

(A) rehabilitate fish habitats in the Trinity River between Lewiston Dam and Weitchpec;

(B) rehabilitate fish habitats in tributaries of such river below Lewiston Dam and in the south fork of such river; and

(C) modernize and otherwise increase the effectiveness of the Trinity River Fish Hatchery.

(2) The establishment of a procedure to monitor (A) the fish and wildlife stock on a continuing basis, and (B) the effectiveness of the rehabilitation work.

(3) Such other activities as the Secretary determines to be necessary to achieve the long-term goal of the program.

(b)(1) The Secretary shall use the program described in section 1(5) of this Act as a basis for the management program to be formulated under subsection (a) of this section. In formulating and implementing such management program, the Secretary shall be assisted by an advisory group called the Trinity River Basin Fish and Wildlife Task Force established under section 3.

(2) The Secretary shall coordinate the activities undertaken under such management program with the activities of State and local agencies, and the activities of other Federal agencies, which have responsibilities for managing public lands and natural resources within the Trinity River Basin.

TRINITY RIVER BASIN FISH AND WILDLIFE TASK FORCE

SEC. 3. (a) There is established the Trinity River Basin Fish and Wildlife Task Force (hereinafter in this Act referred to as the "Task Force") which shall be composed of fourteen members as follows:

(1) One officer or employee of the California Department of Fish and Game to be appointed by the administrative head of such department.

(2) One officer or employee of the California Department of Water Resources to be appointed by the administrative head of such department.

(3) One member or employee of the California Water Resources Control Board to be appointed by such board.

(4) One officer or employee of the California Department of Forestry to be appointed by the administrative head of such department.

(5) One officer or employee of the United States Fish and Wildlife Service to be appointed by the Secretary.

(6) One officer or employee of the United States Bureau of Reclamation to be appointed by the Secretary.

(7) One officer or employee of the United States Bureau of Land Management to be appointed by the Secretary.

(8) One officer or employee of the United States Bureau of Indian Affairs to be appointed by the Secretary.

(9) One officer or employee of the United States Forest Service to be appointed by the Secretary of Agriculture.

(10) One officer or employee of the United States Soil Conservation Service to be appointed by the Secretary of Agriculture.

(11) One officer or employee of the United States National Marine Fisheries Service to be appointed by the Secretary of Commerce.

(12) One individual to be appointed by the board of supervisors of Humboldt County, California.

(13) One individual to be appointed by the board of supervisors of Trinity County, California.

(14) One individual to be appointed by the Hoopa Tribe of the Hoopa Valley Indian Reservation, California.

Any vacancy on the Task Force shall be filled in the manner in which the original appointment was made.

(b) If any member of the Task Force who was appointed to the Task Force as an officer or employee of a United States department or agency or as an officer or employee of a California State department or board leaves such office or employment, he may continue as a member of the Task Force for not longer than the end of the fourteen-day period beginning on the date he leaves such office or employment.

(c)(1) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Task Force.

(2) No moneys authorized to be appropriated under this Act may be used to pay any member of the Task Force for service on the Task Force or to reimburse any agency or governmental unit for the pay of any such member for such service.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There is authorized to be appropriated—

(1) for the construction authorized in this Act, beginning on October 1, 1983, and to remain available thereafter until expended, the sum of $33,000,000, or, if there is an increase or decrease in the engineering cost indexes applicable to the types of construction involved between the month of May 1982, and the date of enactment of any appropriation for such construction, such sum adjusted by such increase or decrease; and

(2) for the cost of the operations, maintenance, and monitoring authorized by this Act, the sum of $2,200,000 annually for a ten-year period beginning on October 1, 1984.

All costs incurred pursuant to this Act shall be nonreimbursable and nonrefundable.

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39-806 O - 84- 6

from the office of

Senator Edward M. Kennedy

of Massachusetts

STATEMENT BY SENATOR EDWARD M. KENNEDY BEFORE THE
SENATE ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
IN SUPPORT OF LEGISLATION TO PROMOTE
CONSERVATION OF THE ATLANTIC STRIPED BASS

September 19, 1984

Mr. Chairman. I would like to thank Senator Chafee and Senator Mitchell for giving me the opportunity to present a statement to this Subcommittee and for your leadership on a conservation issue of great importance in Massachusetts, and indeed, to all coastal communities from Maine to North Carolina. I would note that particularly because of Senator Chafee's efforts in this area, we are now in a position to take positive steps toward the restoration of the striped bass fishery.

Let me begin by saying that the time for action on striped bass is now. If we continue to wait, we will only postpone the day when the striped bass fishery is returned to its once thriving state.

Although it is late in the session, I believe there is a real oportunity to enact striped bass legislation before we adjourn this year. Very recently the House Merchant Marine and Fisheries Committee reported out a strong striped bass bill which would both coordinate state management efforts and continue the critical and complementary scientific research program initiated five years ago through the efforts of Senator Chafee. The full House of Representatives is expected to act this year. I am hopeful that today's hearing can help us resolve the differences which exist between the Senate bills, so that we too can act expeditiously to pass legislation.

As you know several months ago, I introduced legislation on striped bass. That bill represents a two-pronged effort to revive the striped bass population. First, it places an immediate prohibition on interstate commerce in striped bass less than 24 inches in length.

Second, the bill mandates the selective imposition of state-wide moratoria on striped bass fishing against those Atlantic coastal states which have failed to comply -- by the end of this year -- with the regional management guidelines developed by the Atlantic States Marine Fisheries Commission (ASMFC).

The need for action is clear. Since 1973, striped bass landings on the East Coast have dropped by ninety percent. This drastic decrease has resulted in the loss of seven thousand jobs in coastal states from Maine to North Carolina and each year it costs the economies of these states approximately $200 million.

The Emergency Striped Bass Research Study -- commissioned five years ago at the request of Senator Chafee and released in April -- strongly recommends that to preserve the "striper," a temporary but significant reduction in fishing must be instituted.

The study indicates that a number of factors -- including overfishing, organochlorine pollution, and acid rain -- may be responsible for the decline of the striped bass fishery. Each of these conditions -- particularly the acid problem -- must be addressed if any long-term restoration plan is to be effective. But the immediate imperative is to avert irreversible damage to the striped bass population, and both scientists and fishermen agree that this can be achieved only if fishing is significantly curtailed for a limited period of time.

Effective management of striped bass is a difficult task, requiring coordination and cooperation among the twelve Atlantic states in whose tidal waters the fish are concentrated. The unique problems associated with managing a coastal migratory species like the striped bass have been recognized at the federal level since 1942. In that year Congress consented to the formation of the Atlantic States Marine Fisheries Commission by compact among the various Atlantic coastal states. Each state is represented on the Commission, which is recognized today as the sole planning agency for management of all East Coast nearshore fisheries.

In 1981 the ASMFC produced an interstate management plan which called for fishing restrictions to allow more "stripers" to reach spawning age. Unfortunately, three years have passed since that time and some states have not yet put the Commission's plan into effect. During this period of delay, the situation has grown more serious. Last December, the ASMFC reviewed the latest scientific data and concluded that even if the 1981 plan could be made effective in all states immediately, new, more stringent measures are now required to protect the species.

Today, ASMFC is calling for a fifty-five percent reduction in striped bass catch beyond the levels proposed in 1981. The recommendations reflect a scientific consensus on the steps necessary to permit full restoration of the fishery. Fishermen and managers have turned to Congress for action to ensure that the states will not again fail to take the necessary steps. Today we are losing the battle to save the "striper" and that is why I believe legislation is required.

The legislation I introduced adopts the approach taken in the bill recently reported by the House Merchant Marine and Fisheries Committee. It calls for the selective imposition of statewide moratoria against only those states which have failed to comply with the ASMFC guidelines by a date certain. This approach will preserve the primary role of state governments in the management of species within state waters, and, at the same time, provide some incentive for states to move quickly to protect the Atlantic striped bass.

Many of the twelve states included in the Striped Bass Interstate Management Plan have moved effectively into voluntary compliance with both the 1981 ASMFC guidelines and the 1983 emergency recommendations. These states should not be penalized for the leadership they have shown thus far. This legislation will provide the right amount of federal oversight to ensure that the other states initiate similar efforts.

This bill has another important element. It provides for an immediate ban on the interstate sale of striped bass less than 24 inches long.

By restricting the ability to sell immature striped bass, we will significantly reduce the incentive for harvesting the species during this critical period. The ASMFC Executive Committee believes that this will encourage development of a stable population by allowing more striped bass to spawn at least once.

In closing, let me say that I was heartened by Maryland Governor Hughes recent and decisive action to conserve striped bass in the Chesapeake Bay. Now it is time for Congress to follow his lead, and the lead of other states, to create a framework so that every state will do its share to save the "striper."

There are some differences between my bill and the others which have been introduced. But all of us agree on the fundamental need for legislation. I am confident that we can move quickly to find the common ground on which to build a new beginning for the striped bass fishery.

STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE

I want to commend the Chairman of the Subcommittee, Senator Chafee for holding todays hearings. I know that he has been very interested in the conservation of striped bass for a number of years and it is, to some extent, the information received from studies authorized by earlier Chafee legislation which brings us here today. I also want to recognized the efforts of Governor Hughes, who is testifying before us today, to clean up the Chesapeake Bay in general, and to restore the striped bass in particular.

Striped bass populations are clearly in trouble. In 1973, commercial striped bass landings from Maine to North Carolina reached a record high of 14 million pounds. In 1983, the coasts's commercial landings fell to their poorest level since record keeping began, 1.6 million pounds, a drop of nearly 90 percent in 10 years.

Clearly, efforts to save the striped bass must be a top priority, and it is my understanding that most of the coastal states have accepted their responsibilty to conserve striped bass. I know that the state of Maine has. After a rocky start, Maine has passed two laws to restrict the catch of striped bass. The state has set a 16 inch minimum size for fish taken, has limited to four the number of fish per person per day which may be taken, has restricted the method of taking to hook and line or spear, and has prohibited the sale of fish taken in the state. The Atlantic States Marine Fisheries Commission has determined that Maine has complied with its recommendation to reduce the overall take by 55 percent.

The Subcommittee has before it today a number of bills to encourage striped bass conservation. I look forward to hearing the testimony on these measures and will review the bills carefully. I will be

especially interested in the different state and Federal roles authorized. While I recognize the Federal interest in ensuring that striped bass are not depleted beyond their ability to recover, I am also concerned that the state responsibility to manage fish within coastal waters not be abridged.

STATEMENT OF ROBERT A. JANTZEN, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE, ENVIRONMENTAL POLLUTION SUBCOMMITTEE ON S. 2667, THE COASTAL MIGRATORY FISH CONSERVATION ACT, AND RELATED BILLS

SEPTEMBER 19, 1984

Mr. Chairman, it is my pleasure to be able to appear before this subcommittee to discuss S. 2667, the proposed Coastal Migratory Fish Conservation Act, dealing with interjurisdictional fishery resources that occur primarily in the Territorial Sea of the United States and in contiguous inland waters. Your letter of invitation asks that we focus our attention on those portions of the bill that address striped bass, we presume because of the plight of the Atlantic coastal migratory stocks of that species.

Before addressing the striped bass aspects, however, I would like to briefly discuss the broader bill. "Coastal migratory species" are defined in the bill as any species of fish or shellfish that migrate between the coastal waters of two or more coastal states or between coastal waters and the Exclusive Economic Zone (EEZ) and are harvested predominantly in coastal waters rather than the EEZ. As used in the bill, we understand the EEZ to be the area generally from three miles to 200 miles offshore.

Species that might be identified under this definition include menhaden, bluefish, red drum, sea trout, river herrings, sturgeons, shads, and crabs in addition to one or more stocks of striped bass. It would also appear that the bill includes catadromous species such as the American eel.

Coastal waters, as defined in the bill, include ocean waters landward of the EEZ as well inland waters such as estuaries, embayments, and lagoons. As drafted, nowever, no inland boundary of these coastal waters is established so that

virtually the entirety of these coastal States is included under the bill. This aspect of the definition should be examined further.

For purposes of this bill, the Great Lakes are not considered coastal waters. Twenty-four States are affected--15 on the Atlantic Coast, five on the Gulf Coast (counting Florida again), and five on the Pacific Coast.

Fundamentally, the bill establishes a systematic process for identifying and then addressing problems impacting coastal migratory fish species. The first step is the identification by the three Marine Fisheries Commissions--Atlantic States, Gulf States and Pacific--of coastal migratory fish stocks requiring conservation and management. These commissions were established through interstate compacts over the past 40 years. The stocks requiring action are to be identified within one year of enactment and a list developed ranking them in terms of need for action and specifying when the fishery management plans for each stock or fishery will be submitted to the Secretaries of Commerce and of the Interior for review. Any lists submitted to the Secretaries as well as any subsequent amendments must be approved by two-thirds of the voting members of each commission and must be accompanied by the information and reasons for including each stock or fishery. Within 60 days after receiving the lists or any amendments, the Secretaries must review and, if appropriate, modify them and initiate their adoption as a Federal regulation.

The bill contains no provision for actions by the Secretaries or others in the event a commission does not identify stocks or fisheries requiring action. The bill would make it possible, however, for the appropriate Secretary to add stocks or fisheries to lists submitted by a commission or to subsequently amend any promulgated list under the procedures set out in Section 104(b)(1)(B).

For stocks or fisheries identified by the Secretaries in the promulgated lists, a fishery management plan would be developed by the commissions that meets standards established by the Act and addresses certain required topics. Under the bill, the Secretary of the Interior would be responsible for fishery plans for anadromous fish while the Secretary of Commerce would be responsible for plans related to other coastal migratory species. The management plans must be submitted to the appropriate Secretary based on the schedule established in the promulgated list, although an extension of up to six months can be granted for cause. The bill does not establish specific dates when all plans must be completed or even a maximum period for completing the plans. Public comments concerning each plan must be obtained by the the appropriate Secretary within three months of receipt of a plan. A decision to accept the plan or require modification must then be made within 30 days after the close of the public comment period. If, after the commission has had an opportunity to correct any deficiencies identified, the plan is still found to be inadequate or if no plan is submitted, the lead Secretary for the species must develop the necessary plan within six months to a year including providing the affected commission and States an opportunity to review and comment on it.

After approval, it will be the responsibility of each involved coastal State to implement and enforce the requirements of the plan. The lead Secretary is responsible for monitoring the implementation and enforcement of each plan based on information supplied by the commissions or obtained through on-site investigations and, we assume, other means. If, based on this monitoring, the Secretary decides that a State has not implemented or is not satisfactorily implementing or enforcing an approved management plan and that failure has, or is likely to have, a substantial, adverse impact on the achievement of plan

objectives, the Secretary must take remedial action. First, this requires that the State(s) and affected Commission be notified of such findings and then begin consultations to discuss and, hopefully, resolve the problem(s). If, after 90 days, the Secretaries decide appropriate remedial measures have not been, or are not likely to be, instituted, they declare a Federally enforced moratorium on all fishing for the coastal migratory species involved within the coastal water of all States not in compliance with the plan. All fishing for, possession of, and interstate transfer of the coastal migratory species to which the moratorium applies is prohibited during the moratorium period. The Secretaries may terminate a moratorium, on a State-by-State basis, once an approved fishery management plan is effectively implemented and enforced.

Penalties for violation of a moratorium include substantial civil fines and/or forfeiture of vessels, gear, equipment, cargo and fish. The Secretaries are required to enforce any moratorium, although they may, by agreement, use the services, personnel, equipment or facilities of other Federal agencies or agencies of the coastal States involved to carry out that enforcement.

Let me now address the striped bass provisions contained in Section 112 of S. 2667 and contrast them to those of the other striped bass bills introduced in this Congress--H.R. 4884, H.R. 5492, and S.2758. Under Section 112 of your bill, Mr. Chairman, a moratorium on striped bass fishing would be imposed along the entire Atlantic Coast upon enactment. The moratorium would be enforced by the Secretaries or, by agreement, the U.S. Coast Guard or the States on a reimbursable basis. This moratorium would be terminated on a State-by-State basis upon implementation of an approved fishery management plan for striped bass developed by the Atlantic States Marine Fisheries Commission in accordance with other provisions of the bill.

The other three bills deal only with striped bass. They are also, in large measure, a response to the findings, conclusions, and recommendations of the Third Report of the Emergency Striped Bass Study (ESBS), particularly the key recommendation for an immediate, substantial reduction in the harvest of striped bass from North Carolina to Maine. Because of that recommendation, the 12 States involved have initiated measures that resulted in substantial reductions in fishing effort on striped bass. This, of course, has stimulated the interest of Members of Congress from those States and elsewhere in the issue. The first bill (H.R. 4884) introduced by Mrs. Schneider would impose an immediate moratorium on striped bass fishing from North Carolina to Maine as does your bill. However, the moratorium imposed under H.R. 4884 would be in effect for a minimum of two years and, more likely, five years depending on whether and how quickly Chesapeake Bay stocks rebound. No matter what occurred, it would terminate after five years without additional Congressional action. It could not be lifted on a State-by-State basis; it would be an all or nothing proposition.

A fundamentally different approach is taken in Congressman Studds' bill (H.R. 5492) and in the bill introduced by Senators Kennedy and Tsongas (S. 2758). These bills would authorize the imposition of a State-by-State moratorium on striped bass fishing based on the determination of the Atlantic States Marine Fisheries Commission that a State had not developed a program to reduce striped bass harvest by at least 55 percent or, if such a program had been developed, it was not being implemented. The Kennedy-Tsongas bill also has a provision prohibiting the interstate sale of striped bass less than 24 inches long. If the bill were enacted in 1984, it would be a year or more at the earliest a moratorium is likely to be imposed under these bills even if a State was clearly

not in compliance with the ASMFC Plan in order to allow all States to develop, authorize, and implement the necessary programs to reduce fishing pressure on striped bass by at least 55 percent. We would not object to the approach in H.R. 5492 because it provides the greatest opportunity for the States to resolve the problem and would only require Federal action where a State fails to adequately address the problem of diminishing populations. Incidentally, should the Committee favorably consider H.R. 5492, we recommend that the Secretary of Commerce be required to consult with the Secretary of the Interior when deciding whether or not to impose a moratorium.

Coastal migratory striped bass stocks have undergone a rapid decline, some would even say collapse, over the last decade. Of particular concern to us are the Chesapeake Bay stocks that produce so many of the striped bass that migrate north to New England each summer and fall and the Delaware River stock that has already been lost. Harvest and, presumably, population levels are currently only 10 percent of what they were in the mid-1970s and are at historic lows. As you may be aware, the latest Chesapeake Bay young-of-the-year juvenile recruitment surveys conducted by the State of Maryland indicates this year's striped bass production was extremely poor, even "disastrous." This is the fourth such poor showing in the last five years.

High fishing mortality has reduced the basic fecundity or reproductive potential of these stocks by removing females before they reach their maximum reproductive potential. Ongoing studies suggest that something in the nursery areas of Chesapeake Bay, at least, is causing excessively high, episodic mortality among very young striped bass, although I want to emphasize that these studies are still underway.

In response to the findings and recommendations of the ESBS, the 12 States involved, working under the auspices of the Atlantic States Marine Fisheries Commission (ASMFC), agreed last December to reduce fishing effort on striped bass by an additional 55 percent beyond that to be achieved under their 1981 Interstate Management Plan for Striped Bass. This reduction is generally considered the bare minimum necessary for the recovery of Chesapeake Bay stocks. In testimony on Mrs. Schneider's bill earlier this year, we strongly endorsed the need for at least this minimum reduction in the harvest of striped bass, but preferred that the States work through the ASMFC to achieve this reduction if it could be accomplished in a timely fashion. We testified then that we would wait about two months to allow the ASMFC to assess how effective State actions would be in achieving the goal of an additional 55 percent harvest reduction before deciding whether to recommend Federal action.

I am sure you recognize the difficulty of determining with precision the degree to which the goal of a 55 percent reduction in fishing effort is likely to be achieved, particularly given the limited data available and the incomplete understanding of the population dynamics of these stocks. Nonetheless, we have made a good faith effort to objectively assess the effectiveness of actual and planned State actions towards that goal based on information supplied by the States and the ASMFC. While it is clear the States have made substantial progress toward the goal, it is equally clear that further State actions are necessary.

Finally, as requested in your letter of invitation, I would like to comment on the need to extend the Emergency Striped Bass Study which was first authorized in 1979. Because of that initiative and the resultant focus on and funding for research on striped bass--undertaken in close cooperation with

NMFS, the States, and other concerned organizations--we have a much fuller, although still incomplete, understanding of:

- o the extent of the decline in Atlantic coastal migratory stocks of striped bass;
- o many of the factors causing that decline; and
- o the economic impacts of that decline.

As noted last spring in Departmental testimony on Mrs. Schneider's bill, the Administration is opposed to simply reauthorizing an "emergency" study in the absence of effective corrective actions. Although additional research and population assessment is definitely required, there is no longer any reason to have an "emergency" study authorization. All the authority necessary to carry on these studies is found in existing laws, such as the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act. The States may also contribute a greater share than previously. For these reasons, Mr. Chairman, we do not believe there is a need to reauthorize Section 7 of the Anadromous Fish Conservation Act, better known as the Emergency Striped Bass Study. Some of the types of research that we believe could be conducted pursuant to existing authorities or by the States include the incidence of starvation, predation factors, the impacts of contaminants, the effect of fishing on striped bass stocks, and a variety of other factors influencing the survivability of striped bass.

This concludes my prepared testimony Mr. Chairman. I will be pleased to address any questions you or other menbers of the Subcommittee may have.

TESTIMONY
OF
GOVERNOR HARRY HUGHES
HEARINGS ON S. 2667
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
WASHINGTON, D.C.
WEDNESDAY, SEPTEMBER 19, 1984

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear today to discuss Maryland's State fish -- the striped bass or as we know it in the Bay Country -- the rockfish.

As the Committee well knows, the status of the rockfish stocks in the Chesapeake Bay has been given a great deal of attention and culminated in our announcement last week to declare rockfish a threatened species under Maryland law and to propose a moratorium on commercial and recreational taking of rockfish as well as a ban on sale or possession to be effective January 1, 1985.

I believe it would be instructive to review briefly the action taken last week, inasmuch as it relates closely to the management plans of the Atlantic States Marine Fisheries Commission, of which Maryland is a member, and to pending federal legislation.

In October of last year, after witnessing our annual Young-of-the-Year survey of rockfish drop to a level below 2, which is an alarmingly low figure, I requested that ASMFC move to increase protection of the rockfish. ASMFC reviewed the status of coastal and Chesapeake Bay stock, then prepared a 55 percent fishing effort reduction plan, which by early summer most member states had approved and were beginning to implement. Maryland itself worked toward this goal through enactment of emergency legislation this past session of the General Assembly for last year's spawning season.

However, even as we were working to pass and implement the legislation imposing the 55 percent fishing pressure effort, our biologists, assisted by scientists from other states and the federal government, intensified their field investigations in waters where rockfish spawn.

From December through May they analyzed rockfish resident and migratory spawning stock.

From April through June they monitored environmental and physical parameters, disease and habitat conditions as they relate to the spawn, hatch, and survival of larvae and fry.

Since July they have been calculating survival through the Young-of-the-Year seining survey.

THEREFORE, BECAUSE IT WOULD TAKE THREE TO FOUR YEARS TO MEASURE THE SUCCESS OR FAILURE OF ANY ACTION, WE COULD NOT RISK THE POSSIBILITY THAT THE 55 PERCENT REDUCTION ACTION WOULD FAIL. WE HAD TO TAKE IMMEDIATE STEPS TO REDUCE FISHING MORTALITY ON PRESENT AND POTENTIAL SPAWNING STOCK. A MORATORIUM WILL PROVIDE THE MAXIMUM EGG DEPOSITION AND THE MAXIMUM PROTECTION TO THE ENDEMIC CHESAPEAKE BAY STOCKS.

WE UNDERSTAND THAT THE ACTION WE HAVE PROPOSED HAS REPERCUSSIONS WHICH ARE FAR-REACHING BOTH IN TERMS OF OUR MARYLAND WATERMEN AND IN TERMS OF WHAT OTHER STATES DO TO PROTECT THIS GREAT RESOURCE. OUR WATERMEN WHO EARN A LIVING CATCHING ROCKFISH WILL BE SERIOUSLY AFFECTED. I HAVE THEREFORE ESTABLISHED A TASK FORCE TO MAKE RECOMMENDATIONS TO ME ON HOW COMPENSATION CAN BE ACCOMPLISHED FOR BOTH COMMERCIAL FISHERMEN AND CHARTER BOAT CAPTAINS.

IT IS QUITE CLEAR THAT MARYLAND, WHEN FACED WITH INCREASING EVIDENCE OF THE FISHERY DECLINE, HAS NOT SHIRKED ITS RESPONSIBILITY. WE IN MARYLAND RECOGNIZE THAT OUR RESPONSIBILITY IS GREATER BECAUSE THE CHESAPEAKE BAY SERVES AS THE MAJOR SPAWNING GROUND AND NURSERY AREA FOR THE ATLANTIC COAST STRIPED BASS. WITH RESPECT TO THE OTHER ATLANTIC COAST STATES, I AM WRITING THIS WEEK TO THE GOVERNORS OF ALL MEMBER STATES INCLUDED IN THE ASMFC, INFORMING THEM OF OUR ACTIONS AND URGING THAT MEASURES MORE STRINGENT THAN THE 55 PERCENT REDUCTION BE TAKEN, INCLUDING MORATORIA WHERE NECESSARY, TO PROTECT CHESAPEAKE BAY STOCKS. WHEN THE ASMFC MEETS IN OCTOBER IN SAVANNAH, GEORGIA, IT IS OUR HOPE THAT THE COMMISSION WILL RECOMMEND THAT THESE ACTIONS BE TAKEN BY THE MEMBER STATES.

CRITICAL TO OUR COLLECTIVE SUCCESS IS FEDERAL SUPPORT. I BELIEVE THIS SUPPORT SHOULD COME IN SEVERAL FORMS:

-- LEGISLATION TO ENHANCE THE ASMFC FISHING REDUCTION EFFORT;

-- FINANCIAL SUPPORT TO THE STATES FOR,

  -- RESEARCH;

  -- MONITORING;

  -- PLANNING - TO ASSIST IN THE DEVELOPMENT OF FISHERIES MANAGEMENT PLANS; AND

  -- HATCHERY DEVELOPMENT.

THESE FEDERAL ACTIONS OUTLINED ABOVE WILL COMPLEMENT MARYLAND'S PROPOSED ASSISTANCE TO WATERMEN FOR THE ECONOMIC DISLOCATIONS WHICH WILL INEVITABLY FLOW FROM THE MORE STRINGENT REGIONAL FISHING REDUCTION MEASURES.

It is also our position that a concerted effort must be made by the federal government to assist in the construction of hatcheries so that the brood stock of important species such as the rockfish can be preserved, reproductive research can be conducted and stock restoration can be accelerated. It is my understanding that the Senate Appropriations Committee is requesting that the Department of Interior provide an analysis of increased federal support for hatchery programs. I strongly urge that this analysis give strong consideration of a hatchery program for striped bass in the Chesapeake Bay.

The legislation before the Committee goes a long way toward addressing the issues I have mentioned today. Clearly, a more intensive state and federal cooperative effort is needed to address the important fishery resources, such as the rockfish, which are in decline. I wish to indicate today that we in Maryland stand ready to participate fully in such an effort even as we initiate vigorous action to restore the Chesapeake stocks of our splendid State fish.

STATEMENT OF GORDON C. COLVIN, DIRECTOR, DIVISION OF MARINE RESOURCES, NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

SUBMITTED TO THE SENATE ENVIRONMENTAL POLLUTION SUB-COMMITTEE ON PROPOSED S.2667.

Mr. Chairman, Members of the Sub-Committee:

Thank you on behalf of the International Association of Fish & Wildlife Agencies for the opportunity to present our views with respect to pending S.2667, Title I, Section 112.

SUMMARY

It is the long standing policy of the International Association that fish and wildlife resources occurring within the boundaries of, and in the Territorial Seas adjacent to, individual states are held in trust by the states for the enjoyment, appreciation, economic and scientific benefit of present and future generations. Management agencies must strive to improve the quality and quantity of fish and wildlife resources and their habitats and ensure, at the very least, that these resources are passed on to succeeding generations in a viable condition. In addition, management must establish as a high priority the development and/or maintenance of adequate numbers to ensure the aforementioned benefits and optimal numbers of high interest species.

The International Association strongly supports the establishment and maintenance of viable working partnerships between state and federal governments, with respect to the management of those fish and wildlife species that regularly migrate across state and national boundaries. With respect to those marine and estuarine species which are exploited mainly in the internal waters and Territorial Seas of the several states, such as the striped bass, the International Association concludes that the cooperative management effort of the states functioning through the regional marine fisheries commissions, with the technical and financial support and cooperation of the Federal Government, is the most appropriate and effective means of managing such fisheries.

It is, therefore, recommended that legislation under consideration be carefully crafted so as to maintain and improve these traditional state/federal relationships and to provide that states, either individually or working cooperatively through interstate commissions, maintain their preeminence in the management of fisheries occurring primarily within their internal waters and Territorial Seas.

- Section 112(e) provides that the Secretaries may terminate the moratorium. If the requirements of this bill have been met, there should be no room for secretarial discretion in lifting moratoria.

Therefore, it is the recommendation of the International Association of Fish & Wildlife Agencies that a federally-sponsored moratorium not be implemented, but that Congress continue to carefully monitor the efforts of states through the Atlantic States Marine Fisheries Commission working cooperatively with the National Marine Fisheries Service and the Regional Fishery Management Councils to effect further reductions in the mortality of Atlantic Coastal stocks of striped bass as they are presently proposing to do in a systematic and disciplined manner.

CONCLUSION

I thank the sub-committee for the opportunity to present the views of the International Association of Fish and Wildlife Agencies with respect to these important legislative matters. I would also like to thank the sponsor of this legislation for his continuing support for, and leadership in, maintenance of interstate fishery management programs and striped bass research. The International Association looks forward to continuing to work with the sub-committee in its further deliberation of these issues.

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Statement of

Irwin M. Alperin, Executive Director
Atlantic States Marine Fisheries Commission

on

S.2667, Coastal Migratory Fish Conservation Act

Before The

Subcommittee on Environment Pollution,
Committee on Environment and Public Works

September 19, 1984

Mr. Chairman, my name is Irwin Alperin and I am the Executive Director of the Atlantic States Marine Fisheries Commission. On behalf of the Commission members, I appreciate the opportunity to present our views on S.2667, The Coastal Migratory Fish Conservation Act including its focus on an immediate moratorium on the Atlantic striped bass fisheries.

The Atlantic States Marine Fisheries Commission was established by a Compact entered into by the various Atlantic Coastal States beginning in 1941. The consent of congress to the Interstate Compact was signed by the President in 1942.

The 15 participating States are Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida. Each State is represented by three Commissioners - an administrator

Plans should be reviewed and approved by one agency (perhaps in concurrence with another).

As you requested, Mr. Chairman, I will now focus on the Striped bass provisions of S.2667 and address the balance of the bill at the conclusion of my statement.

Section 112: Atlantic Striped Bass Fishery and the ASMFC Interstate Striped Bass Management Program

Section 112 would impose an immediate moratorium in all states under the Atlantic States Marine Fisheries Commission's jurisdiction (Maine to Florida). The moratorium would be lifted on a state by state basis as each state implemented the provisions of an interstate fishery management plan prepared by the Commission and approved by the Secretary of Interior.

Mr. Chairman, we are opposed to the provisions of Section 112. We feel that the moratorium provision is not necessary or appropriate at this time.

I would like first to describe briefly what the ASMFC and its member states have accomplished in the interstate management program and what further measures we intend to take in the very near future.

The Atlantic States Marine Fisheries Commission has been deeply involved with the striped bass fishery for many years. In 1981, we developed our Fishery Management Plan for Striped Bass which was approved by the 12 member states with migratory striped bass stocks within their waters. These states then proceeded to implement the plan through their individual legislative and regulatory processes. The 1981 interstate plan has now been essentially implemented in its entirety.

There is no question that the striped bass population is now experiencing a serious decline and that striped bass reproduction in Chesapeake Bay has been seriously below the average in recent years. We agree wholeheartedly

that fishing pressure on the Chesapeake Bay component of the fishery should be reduced, and we are proceeding quite rapidly to accomplish such a reduction.

In late 1983, scientists investigating the causes of the decline of striped bass under the Chafee Emergency Striped Bass Study concluded that striped bass stocks have continued to decline in spite of recent management measures by the states participating in the interstate management program, and that more restrictive striped bass management measures would be required. When we heard these recommendations, our Striped Bass Scientific Committee and Management Board immediately began to work on recommendations to our member states. By December of 1983, a set of Interim Restoration Measures were developed and presented to the states for their approval and implementation. These Interim Measures urge the states to effect an additional 55% reduction in the fishing rate on Chesapeake stocks beyond that which was effected by the reductions achieved by implementation of the 1981 management plan.

In late May of this year, our Striped Bass Management Board convened to evaluate the states' progress in implementing the Interim Restoration measures on a state by state basis. In the first five months of this year, many states were able to achieve the additional reductions, and many others were able to make very substantial progress toward their goals, despite institutional constraints such as the need for legislative action and a demanding regulatory process, public pressure from constituent groups, and other impediments that are all too familiar to anyone who is involved in processes that have a strong impact on the livelihoods and life styles of large groups of people. Since May, a number of further actions have been taken by several states, and today I can report with pride that with only several exceptions the states have now achieved a 55% or greater reduction. An appended 2-page chart ("Status of Striped Bass Regulations from Maine to Florida as of August 1984") provides more detail on the individual state management measures and the ASMFC Striped Bass Board evaluations.

ASMFC respectfully submits the following Section by Section comments and recommendations for your consideration:

Section 103(2) - Coastal migratory species should not be limited to those "predominantly" harvested in a coastal region rather than in the Exclusive Economic Zone. More than 50% of a species' harvest could occur in the EEZ, and yet management in the territorial seas or internal waters could be critical to the attainment of an optimum yield for the stock. It would be preferable to word subsection B of this definition to read, "A significant proportion of the harvest or a significant part of the life history occurs in a coastal region."

Section 103(4) - The term "coastal waters" includes all coastal waters inside 12 miles as well as all inland waters of the several states. This definition coupled with the definition of coastal migratory species could be interpreted to include all fish species (inland and coastal) found in rivers that form interstate boundaries. Also, this definition would incorporate stocks of coastal migratory species which inhabit isolated inland bodies of water and do not contribute to coastal harvest. A means should be found to exclude such isolated populations. The coastal waters and coastal migratory species definitions should be clarified.

Section 103(9)(c)(ii) - Provides definition for fishing which exempts incidental catches. How is this term defined and how will it be enforced?

Section 103(11) - This definition would establish responsibility within the Department of Interior for fishery management plans for anadromous fish, including salmonids, striped bass, and shad and river herrings. Responsibility for management of these species in marine waters is now more generally vested in the Department of Commerce's National Marine Fisheries Service. A change in the roles of the two agencies would be extremely disruptive to existing practices of fishery administration, relationships between the States, the

Federal government and fishery management councils, and would further provide that the Department of Interior must become involved in areas of enforcement and fishery management in which they have limited experience or capability. It is strongly recommended that for the purposes of this act, existing roles of the Secretaries of Commerce and Interior not be changed.

Section 104(a) - Should be rewritten so that the Commission may prepare a list annually of those fisheries that require conservation and management.

Section 104(a)(B) - Requires the Commission to specify a date by which fishery management plans shall be submitted. Without knowledge of specific funds and personnel to carry out the plan preparation, it would not be possible to provide target dates to the Secretaries.

Section 104(b) - This section provides for the review and approval by the Secretaries of the lists of priorities and schedules for the development of fishery management plans by the Interstate Commissions. It further provides that the Secretaries may modify such lists, presumably by changing species or planned completion dates, and to formally adopt the list as a Federal regulation. We find that this process, like the management plan approval process outlined in Section 106, greatly alters the traditional Federal/State role in the management of fisheries in the territorial seas and internal waters of states. Our comments on Section 106 (below) discuss this situation in greater detail. It is recommended that Section 104(B) be modified to provide that Secretarial review of management plan priorities and schedules be confined to an advisory opinion, with respect to conformity to the criteria provided in Section 104(a)(2).

Section 104(b)(B) - Gives the Secretaries carte blanche to add to species lists without any Commission involvement. What recourse do the States or

of the Secretary, as well as the provisions of interstate management plans adopted by Commissions under this act.

Seciton 107(c) - We believe provision should be made that Commissions may, by majority vote, veto plans prepared by Secretaries under Section 106(d)(2), Section 107(a)(2) or Section 110(b)(2). S.2667 provides the Secretaries with unparalleled discretionary powers to enact interstate management plans without Commission concurrence.

Sections 108 and 109 - These sections would provide that in the event a State did not implement the provisions of an interstate fishery management plan within a certain period of time, the Federal government would impose and enforce a moratorium on fishing for the species of fish covered by said plan in the waters of said state. As in Sections 106 and 107, this provision constitutes an unacceptable Federal intrusion into State resource management. Again, we recommend that substitute provisions relating to the granting of Federal support funds for fishery management serve as the incentive for state conformity.

It should also be noted that the imposition of a moratorium as a penalty for failure to implement a management regime unjustifiably penalizes participants in a fishery for the failure of politically motivated legislative bodies, or State institutions to act. Such an action is not only unfair but it is also unnecessary. It would be preferable and more equitable to substitute Federal enforcement until the management regime is implemented. However, we are uncertain that the Federal government, without State support, could adequately enforce either a moratorium or imposition of a management regime in state territorial and internal waters.

Section 112 - This section would establish an immediate moratorium on the harvest of Atlantic striped bass pending completion of a striped bass management

plan by the Atlantic States Marine Fisehries Commission in accordance with Sections 105 and 106, and its submission and approval by the Secretary. Thereafter, striped bass management would proceed pursuant to the general provisions of S.2667.

For reasons discussed above in our review of Seciton 112 and the progress States are making in the implementation of the ASMFC "INTERSTATE FISHERIES MANAGEMENT PLAN FOR THE STRIPED BASS" including its updated amendments, we are opposed, at this time, to the imposition of a Federal moratorium on the harvest of striped bass within the coastal waters of the Atlantic coast.

In conclusion the following overall comments apply to this bill:

1. Imposition of a Federal moratorium on Atlantic striped bass is unacceptable since the Commission's position has been to implement the ASMFC Interstate Fisheries Management Plan which has been adopted, and will be implemented successfully by most of the States within the 12-State management area.

2. The proposed interstate fishery management regime for coastal migratory fish embodied in this act is a welcome initiative to attempt to solve the problem of interjurisdictional fishery management. It provides welcome additional Federal grant funding for the development of fishery management plans by interstate commissions and for implementation of these management plans by individual states. However, its procedures for authorization of Federal approval and preparation of interstate fishery management plans, as well as a federally enforced moratorium on non-conforming States, are not acceptable. ASMFC endorses the concept of State/Federal partnership in interstate fishery management but finds that this bill does not insure that relationship. We would prefer to see an approach identified whereby the Federal government provides its experience and expertise in a close advisory role to the Commissions and their member-States, and further provides funding as an incentive to Commission plan development and States' implementation of the Federal recommendations and adopted management plan provisions.

Accomplishments and Progress of the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Program

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1. Introduction

The Atlantic coastal states and federal government have long realized the social and economic benefits of interjurisdictional marine fisheries management. However, serious efforts to manage interjurisdictional stocks as a unit where these stocks exist as a single exploitable population have occurred only with the last decade. During this time many important territorial sea fisheries, such as striped bass, shad and river herrings, and Atlantic menhaden, showed signs of overexploitation and population decline which underscored the need for coastwide cooperative management. Acting on these facts, the National Marine Fisheries Service provided funding to the Atlantic coastal states through the Atlantic States Marine Fisheries Commission (ASMFC) to coordinate interjurisdictional management and develop fishery management plans (FMPs) in the territorial sea (states' waters).

With this funding the ASMFC created the "Interstate Fisheries Management Program (ISFMP)". This report will review accomplishments by ASMFC in conducting the program and fulfilling the goal of the ISFMP which is to achieve cooperative interstate management of shared territorial sea fisheries of the Atlantic Coast.

All of the ASMFC's 15 member states (Maine to Florida) have become involved with the program's various activities. Figure 1 lists the states which are participating in Fishery Management Plans (FMPs), active species programs, or statistical committees. Over 20 species boards and technical committees are presently formed which bring together a combined membership of more than 100 fishery biologists and managers to work on current interjurisdictional fishery problems. An organizational structure of the ISFMP boards and committees is shown in Figure 2.

PROGRAM TASKS AND GOALS

Five tasks were undertaken to meet the program's goal:

1. to determine priorities among the territorial sea fisheries for inclusion in the ASMFC Interstate Fisheries Management Program
2. to develop, monitor, and review management plans for high-priority territorial sea fisheries
3. to recommend to the states, and where appropriate, to the Regional Fishery Management Councils and the federal government management measures to benefit territorial sea fisheries
4. to provide means of conducting short-term research essential to preparation or revision of a management plan
5. to provide efficient, timely administration of the ASMFC Interstate Fishery Management Program.

Task one (to determine priorities among the territorial sea fisheries for inclusion in the ASMFC Interstate Fisheries Management Program) was accomplished during the first year of the program and has undergone periodic review. Present species/fisheries listed for management are:

1. Striped Bass
2. Shad & River Herring
3. Northern Shrimp
4. Atlantic Menhaden
5. American Lobster
6. Sciaenids
7. Bluefish
8. Summer Flounder

Of these species all but bluefish and American lobster have been included in ISFMP active programs.

Task Two (to develop, monitor, and review management plans for high-priority territorial sea fisheries) has become a continuing process. FMPs for striped bass, Atlantic menhaden and summer flounder were created in 1981 and 1982. In 1983 work was begun on developing FMPs on sciaenids and shad and river herrings. Presently, base documents (species profiles) are completed or nearing completion on seven new species from these two groups. The individual species are listed below:

Shad & River Herrings

American shad
blueback herring
alewife
hickory shad

Sciaenids

weakfish
red drum
spotted seatrout

Two older state/federal fishery management plans, one on American lobster and another on northern shrimp, have been included in the program. Continued monitoring and review of these plans takes place annually. Also through the ISFMP, a workshop on lobster research for the states from Maine to Delaware is planned to take place in September of 1984.

Through the ISMFP the Northern Shrimp Fishery in Maine, New Hampshire, and Massachusetts are monitored and regulated, and most of the state regulations on lobster management from Maine to North Carolina have been adopted. Coordinated state management efforts among a variety of our east coast states, on striped bass, summer flounder, and Atlantic menhaden has taken place. Presently, the Striped Bass and Summer Flounder FMPs are under revision and review. Also, work with all 15 ASMFC states on developing FMPs for the new species is continuing.

Task three (to recommend to the states, and where appropriate, to the Regional Fishery Management Councils and the federal government management measures to benefit territorial sea fisheries) is addressed by the work of the ISFMP Policy

Task five (to provide efficient timely administration of the ISFMP) has been carried out by ASMFC's staff coordinating and conducting all ISFMP activities and meeting all budgetary and reporting requirements of the program.

ISFMP COSTS

Initially the program was funded with $140,000 in 1980, with subsequent additions of $328,570 in 1981 and $100,00 in 1982 and $100,00 in 1983, for a total federal contribution of $668,570. $100,000 is again pledged by NMFS for FY 84 and 85. At this funding level, the program will have to be severely curtailed in September of 1985. Traditionally the ISFMP has received the bulk of its funds from year-end monies at NMFS-Northeast Regional Office. This source of money is unstable and increasingly scarce. It is not the best way to fund such a large and comprehensive program as the ISFMP.

ASMFC estimates that a stable funding source of $250,000 a year is needed to continue on and carry out the objectives of this program. Figure 3 shows the federal dollars put into the program and the work begun on FMPs for new species.

Fishery management planning is now underway for 12 of our most important species. The ISFMP has now built up a tremendous momentum. The program is presently looking after FMPs on American lobster, northern shrimp, striped bass, summer flounder, and Atlantic menhaden. It is coordinating the growth of a state, federal fisheries statistics program for the entire Atlantic coast and in the process of developing FMPs for sciaenids and shad and river herring which will add seven more species to the program. The commercial fishery landings on these species taken from our east coast state waters are worth over 125 million dollars a year. Also, a moderate estimate of the economic activity generated in coastal states by sportfishing

on these species would be more than 300 million dollars a year. The need for federal dollars to continue the ISFMP is essential. The progressive massive buildup of population along our coastlines and the ensuing multiple use pressures brought to bear on the nearshore areas make it imperative to continue work on protecting our fisheries, especially those conducted in states' waters.

The states are providing the time of their employees to work on ISFMP programs. During FY 83 over 100 state employees spent over 27,000 man-hours traveling and attending ISFMP meetings. Their travel and meeting expenses were paid through the ISFMP but their time and salaries were all at state expense. This estimate still does not take into account thousands of hours by state biologists spent in preparing for and writing reports for ISFMP meetings. However, state funding on marine fisheries programs continues to be comparatively small. The ISFMP has helped the states and federal government pool their resources. Through the program the states have in place a mechanism to jointly deal with a crisis in a fishery and to monitor all their important nearshore fisheries. The program also allows the states to utilize the expertise and assets of each other as well as the federal government.

Progress with Implementation of ISFMP Fishery Management Plans

The recommendations for management that have been developed through the ISFMP have not been put in place instantly. Except for northern shrimp, most regulations needed to be implemented through ASMFC member states' legislatures or Marine Fisheries Commissions. This has taken time and caused controversy. However, the states are making progress. With the head start of a small State/Federal Program in the late 70's and four years of development of the ISFMP in the early 80's most of the management measures recommended by ASMFC on striped bass, summer flounder, northern shrimp, and American lobster have been implemented. The FMP for Atlantic

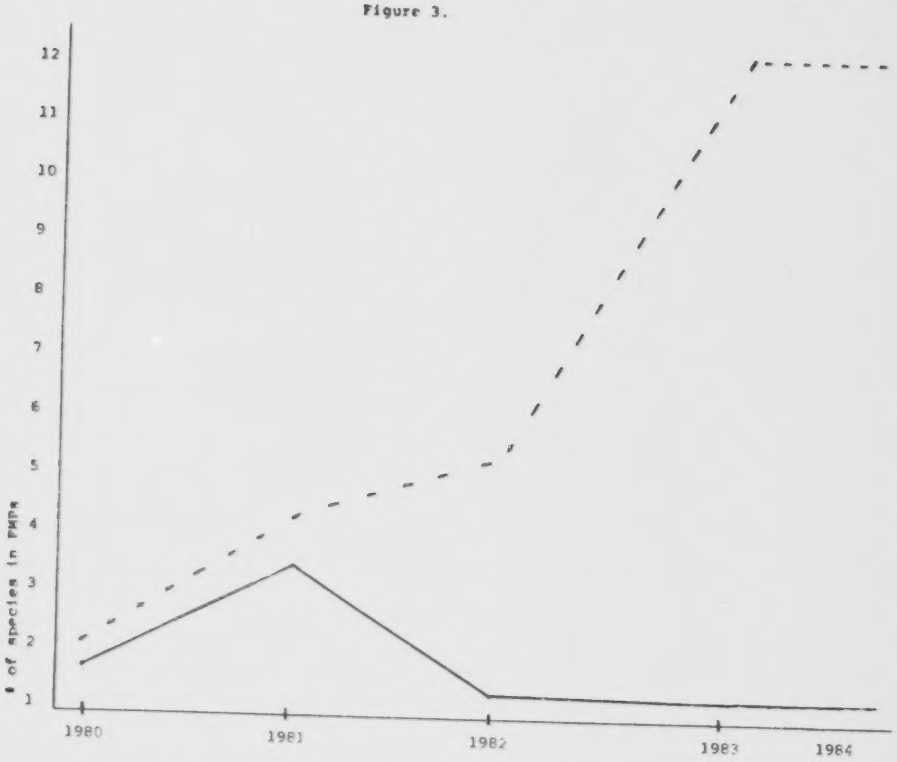
menhaden has made the least progress. However, three key states have accepted the plan and a very successful state, federal, and industry data collection system exists within this fishery because of efforts forged during creation of the FMP.

Because of these ISFMP programs and FMPs a coastal network of fisheries regulations dealing with interjurisdictional management is evolving along the United States' eastern shoreline.

Figure 4 illustrates what has taken place. Fishery Management Plans exist for northern shrimp, American lobster, summer flounder, Atlantic menhaden, and striped bass. Work in all east coast states is continuing on FMPs for sciaenids and shad and river herring. Also, all ASMFC coastal states are participating in developing a joint state/federal fisheries data collection system. A considerable portion of the measures recommended in completed FMPs has been implemented. Gaps do exist on implementation in some states, but strong efforts to close such gaps are building with the states.

The ASMFC's ISFMP has helped accomplish much and is about to accomplish much more if its central idea of a state/federal partnership in inter-jurisdictional fisheries management is allowed to flourish.

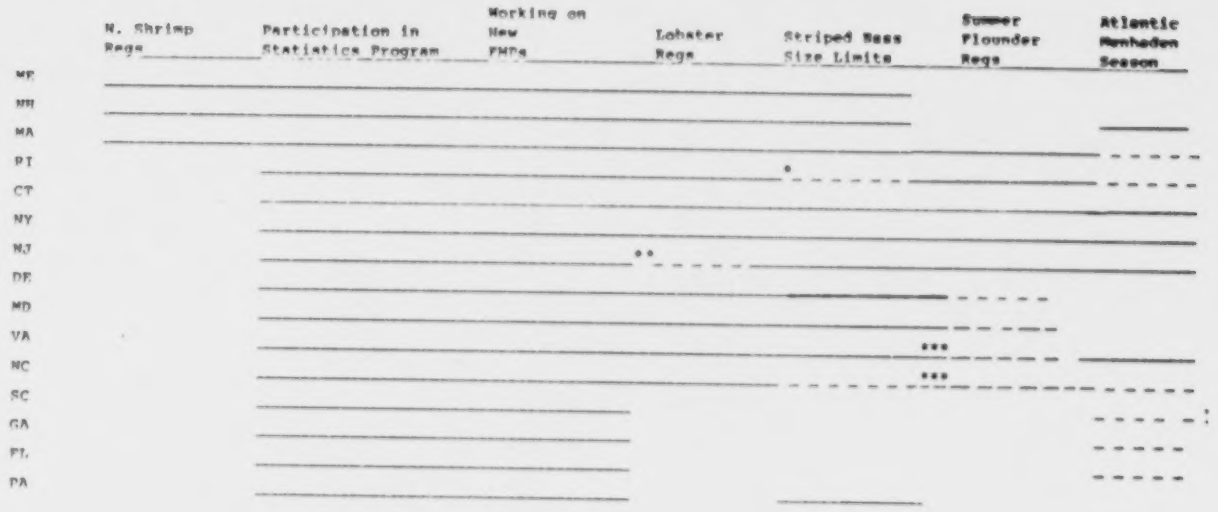
Figure 3.



——————— Federal Dollars put into the ISFMP Program ($100,000 increments)

- - - - - - Work on species for Fisheries Management Plans
(# of species included in management planning)

STATE PARTICIPATION IN INTERSTATE FISHERY MANAGEMENT PROGRAMS AND IMPLEMENTATION OF REGULATIONS IN ASMFC'S FISHERY MANAGEMENT PLANS



_____ Implementation of FMP recommendations or participation in other ISFM programs

- - - - - - - - - - - - FMP Recommendations not yet implemented as of February, 1984

*RI has implemented a very restrictive fishery with an 18" size limit

**NJ has passed legislation which will bring its lobster regulations into compliance by 1987

***VA and NC have 4½" mesh size regulations on summer flounder ASMFC recommends 5½" mesh size.

Figure 4

STATUS OF STRIPED BASS REGULATIONS ME - NC 8/84

State	Implementation of the 1981 Plan Size Limits	Allowable Bycatch in Ocean Fishery	Regulations in place & exceeding 1981 Plan	Further proposed measures for reducing fishing mortality	ASMFC Striped Bass Board Evaluations
ME	X	4(16-24")	No sale, 4 fish limit		55
NH	X	2(16-24")	Striped bass fishing only allowed during Aug.-Oct., 24" fork length size limit, no sale, 4 fish limit, only 1 over 32" fork length allowed		55
MA	X	None	24" fork length size limit, Commercial season only June - Sept., 1 fish sport limit		55
RI		18" and above	2 fish sport limit, otter trawl, and gill net fishery, 18,000 lb quota trap net fishery		55 pending S&S Comm. review
CT	X	4(16-24")	24" fork length size limit, no sale	Eliminate bycatch, closed winter season Dec. - March	55
NY	X	None	Closed winter season Dec.-March, area closures on Hudson River, 18" size limit in Hudson River		30-50%
NJ	X	4(18-24")	Closed winter season Jan.-Feb., area closures on Hudson River, 18" size limit DE Bay & Hudson River, 10 fish limit		55
PA	X		26" size limit		55
DE	X	5% or 4 (16-24")	area closures		10-15%

STATUS OF STRIPED BASS REGULATIONS ME - NC 8/84

State	Implementation of the 1981 Plan Size Limits	Allowable Bycatch in Ocean Fishery	Regulations in place & exceeding 1981 Plan	Further proposed measures for reducing fishing mortality	ASMFC Striped Bass Board Evaluations
MD	X	None	32" max.size limit, seasons, 5 fish sport limit, spawning area fishing restrictions & ocean closure March - May	Spawning area closures March-May, 2 fish sport limit, gear restrictions	47
VA	X	5% or 2 (14-24")	40" max.size limit, spring area closures in spawning grounds April-May, in Ocean March-May, 5 fish sport limit		40-50
NC		None	Ocean moratorium after 500 fish are taken, 24" size limit in ocean. In sounds June-Sept., commercial, summer closures plus 16" size limit and 8 fish creel limit for sport fishing		55
PRFC	X		34" max. size limt, closures Jan.-Feb. and April-May, gear restrictions, 5 fish sport limit		55

APPENDIX 3

AMENDMENT NO. 1 TO THE INTERSTATE FISHERY MANAGEMENT PLAN FOR THE STRIPED BASS

OCTOBER 1984

This action will amend the Interstate Fishery Management Plan for Striped Bass, approved and adopted by the Atlantic States Marine Fisheries Commission in October 1981, by inserting at the end of page 6-22 thereof the followin new language:

"The overall strategy incorporated in the recommended management measures which follow is to reduce fishing mortality, and each one of the options considered (p.6-18) address this strategy. The recommended management measures were considered to be the most effective. It may be necessary for some or all of the states to institute additional restrictions, or for some of the states to use other measures in place of the recommended measures. In order to be deemed in conformity with the management measures which follow, the effects of alternate management measures must be quantifiable and reasonably certain of achieving the same reductions in mortality as would be achieved under such recommended measures. Furthermore, such alternate management measures should be submitted to the Striped Bass Management Board of the Interstate Fishery Management Program, for review and recommendations."

DRAFT AMENDMENT TO INTERSTATE STRIPED BASS MANAGEMENT PLAN INCORPORATING 1984 "INTERIM RESTORATION MEASURES"

APPENDIX 4

AMENDMENT NO. 2 TO THE INTERSTATE FISHERY MANAGEMENT PLAN FOR THE STRIPED BASS

OCTOBER 1984

The Interstate Fishery Management Plan for the Striped Bass, approved and adopted by the Atlantic States Marine Fisheries Commission in 1981, is hereby amended by adding a new Section 6.7, which follows the text which presently ends on page 6-25: **6.7 Interim Restoration Measures for Chesapeake Bay Striped Bass Stocks.**

In February, 1984, the managers of the Emergency Striped Bass Study submitted to the United States Congress a report of the findings of that study to date. That report study, as well as a review of stock status by the Striped Bass Management Program Scientific & Statistical Committee, documented that striped bass stocks have continued to decline in spite of recent management measures by the states participating in the Interstate Management Program.

1. Statement of the problem -

   a) Production indices for striped bass spawned in Chesapeake Bay, the Delaware River, and the Roanoke River are at levels that are the lowest on record.

   b) Dominant year-classes have not been produced in the Chesapeake since 1970 and in the Roanoke River/Albemarle Sound regions since the mid-1970's.

   c) The Maryland spawning population currently lacks representation in the age groups that have historically contributed over 75% of the total annual egg deposition. Contribution of the majority of females to the spawning population is still being made by the 1970 and older year-classes.

   d) Recreational and commercial landings of the coastal striped bass stock have declined steadily in recent years. The decline has been most drastic in the coastal states south of New Jersey.

   e) Several commercial fishing operations have ceased activity due to the scarcity of striped bass.

   f) The number of year-classes making a significant contribution to the fisheries has been reduced due to the lack of dominant year-classes and poor production in recent years.

   g) Numerous organic and inorganic contaminants have been detected in striped bass eggs young-of-the-year and adults. However, no single contaminant has been identified that can be considered responsible for the decline in coastal stock.

   f) Results of laboratory studies suggest that combinations of chemical contaminants may be contributing to the decline of early life stages of East Coast striped bass populations.

g) The level of fishing mortality affects the magnitude of contaminant related mortality that the striped bass population can withstand and vice versa. When contaminant related mortality occurs with fishing mortality, both sources contribute to stock decline. The effects of an increase in either type of mortality are magnified by the occurrence of the other type.

h) Estimates of fishing mortality in the coastal stocks suggest that exploitation may be inhibiting production.

i) Currently available statistical tools cannot detect the relationship between the size of the parental stock and the offspring it produces that eventually become parents themselves (the stock-recruitment relationship). At the present low stock size, the level of density dependent mortality that affects the population is not a major component of natural mortality. Therefore, the number of juveniles produced (year-class strength) may be directly related to the number of eggs spawned.

j) On the whole, the management measures incorporated in this plan on page 6-23 would result in an estimated increase in total population fecundity of approximately 200%. At the present time, a 300% increase in total population fecundity is probably necessary to maintain existing stock size. An increase of approximately 600% would be necessary to reverse the process of decline and begin the process of rebuilding the stocks to the size which supported the fisheries of the 1960's and early '70's. At present broodstock levels, a decrease in fishing mortality rate of 55% beyond that attributable to this plan's base management recommendations, would be required to achieve a six-fold increase in population fecundity.

2. Objectives -

a) Long term objective: Achieve management goal No. 1 of this plan (maintain a spawning stock, minimizing possibility of recruitment failure).

b) Short term objective: Restore Chesapeake Bay spawning stocks so that egg production increases six-fold, which is a level projected to be capable of eventually producing a young-of-the-year index in Maryland of 8.0, calculated as a 3-year average running index.

c) Interim restoration actions:

1. The objectives of these interim restoration measures are to be achieved by all states effecting 55% reduction, beyond that which would be effected by implementation of the base management measures incorporated in this plan on page 6-23, in current fishing rate on Chesapeake stocks that will result in an equivalent reduction in landings the first year.

2. To accomplish this, states are urged to use such measures as catch limits, gear restrictions, seasons, size limits, closures or elimination of bycatch provisions of this plan's recommended management measures. These actions will be evaluated periodically, at the earliest possible time

after state proposals are formulated, by the Striped Bass Management Board and its Scientific and Statistical Committee, to provide findings and recommendations as to whether such measures are true and equitable reductions in fishing mortality.

3. The duration of this interim restoration program shall be until such time as the entire Interstate Fishery Management Plan for the Striped Bass is amended or until such time as the Atlantic States Marine Fisheries Commission amends the plan by deletion or modification of this section.

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036 202—797-6800

COMMENTS OF
NATIONAL WILDLIFE FEDERATION

ON

S. 2667, THE COASTAL MIGRATORY FISH
CONSERVATION ACT

BEFORE

THE SUBCOMMITTEE ON
ENVIRONMENTAL POLLUTION OF THE SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC
WORKS

BY

RUDOLPH A. ROSEN, PH.D.
FISHERIES RESOURCE SPECIALIST,
FISHERIES AND WILDLIFE DIVISION
NATIONAL WILDLIFE FEDERATION

SEPTEMBER 19, 1984

Mr. Chairman, my name is Rudolph Rosen and I am a Fisheries Resource Specialist for the National Wildlife Federation's (NWF) Fisheries and Wildlife Division. Thank you for the opportunity to express the NWF's concern over the status of Atlantic Coast migratory stocks of striped bass and conservation of coastal migratory fish.

The NWF is the nation's largest, not-for-profit conservation-education organization with over 4 million members and supporters throughout the U.S. and in 51 affiliated state- and territory-wide organizations. Angler and commercial fishing groups are included

among our affiliated organizations. The NWF consistently has expressed concern over management of striped bass by calling for uniform management of the species and increased scientific study, continued funding of Section 7 of the Anadromous Fish Conservation Act (commonly known as the Emergency Striped Bass Study), and implementation of an interstate management plan for striped bass (see attached NWF Resolutions). In addition, NWF has participated in numerous state and regional meetings concerning implementation of the Atlantic States Marine Fisheries Commission's striped bass management plan and nearly all meetings of the Emergency Striped Bass Study's coordinating committee.

Mr. Chairman, we strongly commend you for your continued efforts to ensure proper management of Atlantic Coast fisheries. For striped bass, Section 7 of the Anadromous Fish Conservation Act, an amendment to the Act that you authored, has provided for the collection and analysis of information vital to managing the declining Atlantic Coast striped bass fishery. We support continuation of Section 7 studies to address emergency data needs. The bill we are addressing today, S. 2667, is yet another example of your farsighted leadership on behalf of striped bass management. And, we believe that S. 2667 provides the best long-term solution to problems in developing sound management programs for coastal migratory stocks of fish.

The decline of coastal migratory striped bass on the East Coast is symptomatic of a larger problem we face today as a result of coastal and inland habitat degradation and an inability to effectively manage coastal (near-shore) migratory fish. We agree

with the thrust of S. 2667 that a comprehensive approach to addressing the problem of interjurisdictional management of coastal migratory fish is needed as opposed to disjointed treatments for single species.

In the Chesapeake Bay, where the status of striped bass is in greatest jeopardy, the important American shad and river herring fishery has collapsed already. The population declines of these species in the Bay eclipse the present condition of striped bass stocks. However, we are not dismissing the importance of striped bass to the nation or the gravity of the decline in their stocks. Instead we are emphasizing the value to the nation of the complex of coastal migratory species such as striped bass, weakfish, American shad, menhaden (our nation's largest fishery), bluefish, and red drum (redfish), all of which provide important fisheries. The current crisis is over striped bass, the next crisis could involve weakfish or menhaden.

In addition, recovery and management efforts must take a broad approach because any one species exists as but a part of a complex web of interrelated predator and prey species which in turn are dependent on a complex of biological, chemical, and physical factors in the environment. S. 2667 takes that broad approach by addressing management of all our important coastal species now under exploitation and the relationships between those species and their habitats.

Mr. Chairman, as requested, our comments focus primarily on the striped bass provisions of S. 2667. Therefore we discuss Sec. 112 of the Act in detail immediately below. Following our comments on Sec. 112 we address the remainder of S. 2667 in general.

SECTION 112, ATLANTIC STRIPED BASS FISHERY

We too share a sincere concern and sense of urgency which warrants immediate action on behalf of the Atlantic Coast striped bass resource.

We would support imposing a harvest moratorium on a species where biological, physical, or economic factors indicate prohibition of harvest is necessary to protect the species or protect one or more other species dependent on the resource provided primary protection. In addition, if the threat of imposing a harvest moratorium is necessary to motivate a state(s) to implement conservation measures needed to manage properly a species throughout its range, than again we would approve enactment of a harvest moratorium in such a recalcitrant state's waters to ensure proper management of shared resources. For Atlantic Coast striped bass it is still unclear whether it will be necessary to force (by threat of a federal moratorium or other federal intervention) one or more states to implement needed coast-wide conservation measures to protect the economic viability of the striped bass fishery in those states that have implemented regulations. More importantly, however, for Chesapeake Bay stocks of striped bass, continued declines in reproduction may demand imposition of severe harvest restrictions, perhaps even a harvest moratorium, to protect future spawning stocks. Although we would prefer that any conservation measures be developed and implemented by the states, the assistance of the Federal Government may be required to ensure coast-wide enforcement of regulations. And, in the absence of state action, we would agree that federal preemptive action may be required as a last resort.

Although striped bass are experiencing a serious population decline, Atlantic Coast stocks are not on the verge of biological extinction. Reproduction is occurring (in the upper Chesapeake Bay in 1982 the index of juvenile production was "average" for the 30-year period of record keeping) and, at least 1.5 million pounds of striped bass were harvested commercially along the Atlantic Coast and in inland waters in 1983. Good reproduction of the species in the Hudson River has been reported recently.

Nonetheless, striped bass reproduction in Chesapeake Bay and several other locations is poor when compared to historic levels and all data indicate the fishery is declining. Ups and downs in the yearly catch of striped bass have been common throughout the period of record keeping. Today, commercial catches are about as low as those recorded during the early 1930's.

The fishery usually is sustained by the appearance of so-called "dominant" year classes where large numbers of striped bass hatch and survive to enter the fishery. The last dominant year class in the upper Chesapeake Bay was in 1970 when the index scientists use to measure abundance of young fish was the highest since 1954, the year record keeping began. Since 1970, production of young striped bass in Chesapeake Bay has been well below "average" in 7 years, and, in 3 of the last 4 years production has been extremely poor. Perhaps most alarming is the lack of young (5 to 10 year old) fish in the spawning population. It is imperative that fishing pressure on Chesapeake Bay stocks be reduced immediately.

Action to address the decline through scientific management of the Atlantic Coast stock has been proceeding under the auspices of the Atlantic States Marine Fisheries Commission's (ASMFC) Striped Bass Management Board (SBMB).

The ASMFC is composed of three representatives from each of the Atlantic Coast States while the SBMB is made up of representatives from each of the states in the striped bass management area (North Carolina to Maine). In October 1981, the SBMB adopted the "Interstate Fisheries Management Plan for Striped Bass" to regulate harvest. Because of institutional constraints, public pressure, and other impediments in each state, implementation of the 1981 Interstate Plan has been slow. However, for all practical purposes, the Interstate Plan is in place and working (North Carolina is the only state that has yet to implement all of the 1981 Plan's provisions).

In early December 1983, scientists advising the SBMB concluded that stronger management measures would be necessary to reverse the decline of striped bass given the persistance of present conditions. The scientists provided a set of recommendations to the SBMB that would achieve a long-term objective of maintaining spawning stock and minimizing the possibility of recruitment failure, and a short-term objective of restoring Chesapeake Bay spawning stocks to a point where the number of eggs deposited on spawning grounds would increase by six times the current level (this level of increase is thought to be capable of providing for a juvenile striped bass production index of 8 averaged over 3 years in the upper Chesapeake Bay).

By mid-December, the SBMB adopted the recommendations of scientists and each state agreed to develop and implement a set of "Interim Restoration Measures for Chesapeake Bay Striped Bass Stocks." The Interim Restoration Measures would reduce fishing effort on Chesapeake Bay stocks in each state's waters by 55% in addition to harvest reductions achieved by the Interstate Plan adopted in 1981. The SBMB provided states flexibility to propose any means appropriate to regulate their own fisheries, however all proposed Interim Restoration Measures must undergo evaluation by a panel of scientists for effectiveness in addressing the goal of 55% reduction in fishing effort. Scientific evaluation of proposed Interim Restoration Measures occurred in early April 1984 and adoption of the Measures by the SBMB as part of the Interstate Management Plan occurred on 22 May 1984.

Some state fisheries agencies implemented the 55% reduction provision of the Plan almost immediately. However, in other states, due to the requirement that fishery regulations be promulgated through state legislatures, a delay of as much as one year could be incurred before the new regulations are in place. For example, the New York State Legislature granted the state's marine fishery agency regulatory authority over striped bass beginning in April 1985. Nonetheless according to the ASMFC a 55% reduction in fishing effort already has been proposed, evaluated, and implemented in 9 of the 13 states (including the Potomac River Fisheries Commission). Of the states that have yet to implement a 55% reduction, New York has proposed regulations that would achieve a 30-50% reduction, Delaware

a 10-15% reduction, Virginia a 40-50% reduction, and Maryland a 47% reduction as evaluated by the SBMB (on 11 September Maryland announced a prohibition in striped bass harvest would begin on 1 January 1985 and could last as long as 5 years).

It is inappropriate to impose an immediate federal moratorium on harvest that preempts state management authority for striped bass because the states are in the process of implementing strong management provisions. Perhaps the most important factor against a federal moratorium at this time is that scientists responsible for management of striped bass have determined that a complete coastwide moratorium is unnecessary for recovery of stocks (however, some states may elect to establish a state moratorium on striped bass harvest).

Biological information on the species indicates that imposing a moratorium may be no more successful in protecting stocks than would a program of simply preventing overfishing and subjecting the fishery to good fishery management practices. Nonetheless, with all other factors constant from year to year, a reduction of fishing effort greater than proposed by the Interstate Management Plan as amended could result in a more rapid increase in stock size.

Specific Recommendations

The Atlantic States Marine Fisheries Commission's Management Plan to reduce harvest by well over 50% is consistent with the view of scientific managers of the striped bass resource that a level of harvest can be sustained by the population, yet provide for the

species recovery. Because effective fishery management is a complex balance of biological, economic, social, and political factors, we suggest an alternate approach for S. 2667 that would assist the states in implementing effective and scientifically based management measures. We suggest the following be incorporated in the proposed legislation instead of an immediate federal harvest moratorium:

1) Because of the urgent need to control overharvest of striped bass we suggest providing immediate federal assistance to the states by temporarily enforcing all provisions of the ASMFC's Interstate Management Plan as amended, instead of implementing a moratorium in those states not already enforcing the Plan. Since most states already have achieved or exceeded all conservation steps recommended by the ASMFC, initially S. 2667 would affect only a few states.

2) Federal enforcement of ASMFC's Plan should continue for a period not to exceed 1 year from the effective date of S. 2667. However, at any time before the 1-year period ends, federal enforcement may be terminated in any state immediately upon state enforcement of the Plan.

3) In those states, and only those states, that do not implement and begin enforcement of all provisions of the Plan by the end of the 1-year period referred to above, the Secretary should impose a moratorium on harvest and

possession of striped bass (state compliance with the Plan should be determined by the ASMFC in cooperation with the Secretary).

4) Upon enactment of S. 2667, the ASMFC should begin immediate revision of their Interstate Management Plan for Striped Bass according to provisions of Secs. 105 and 106. We understand the SBMB of the ASMFC already is contemplating revision of the Management Plan. Implementation of the revised plan should be subject to provisions of Sec. 108, but in the interim period, provisions of the current ASMFC Management Plan should remain in force.

Although we are not recommending immediate imposition of a federal moratorium on striped bass harvest at this time, we do recognize that such action might be appropriate in the future. Individual states may find it most effective to manage their fishery by prohibiting harvest in their waters. In addition scientists advising the ASMFC may determine there is need for a complete restriction of harvest. We support a harvest moratorium by a state or states if biological data or management needs dictate that to be the best available option for protecting the resource. In addition we support federal implementation of a moratorium if such management is determined to be needed to protect Atlantic Coast striped bass.

We also recommend that language of the Act be narrowed so that Sec. 112 addresses only Atlantic Coast migratory stocks of striped bass as specified by the ASMFC's Management Plan.

NON-STRIPED BASS PROVISIONS OF S. 2667

We agree with the comprehensive approach outlined in S. 2667 to deal with the problem of managing coastal migratory fish species. This approach addresses a root cause of the current problem in managing striped bass.

Problems associated with implementing interjurisdictional fishery management have existed for decades. Creation of the Atlantic, Gulf, and Pacific States Marine Fisheries Commissions was an attempt to address interstate coordination of fishery management. However, the Commissions do not have regulatory power (states of the Atlantic and Gulf Commissions can cede regulatory power to the commissions if they so desire for specific fisheries).

Declines in some coastal migratory stocks may be in part a result of the states inability to act quickly to regulate fishing in a coordinated manner. Impediments to action are not due solely to a lack of concern or inefficiency on the part of the state fishery management agencies in planning for the management of fisheries or even on agreeing on management plans. For example, the Atlantic Coast States recently have developed several interstate fishery management plans (FMP). But, the commissions and other interstate compacts lack a mechanism to ensure that states enact regulations to implement coordinated FMPs. Impediments to interjurisdictional fishery management will continue to plague efforts by resource managers to address critical fishery resource needs such as presently exist for striped bass, American shad, and river herring in the Chesapeake Bay, and to prevent fishery problems which loom on the horizon for species such as menhaden and weakfish.

In general S. 2667 provides a three step solution to problems in managing interjurisdictional fisheries:

1) funding to assist the states in developing FMPs for fisheries under multi-state jurisdiction;

2) a set of minimum standards to which each FMP should conform; and

3) a means to assist states to ensure that all states implement and enforce multi-state adopted conservation regulations as specified in FMPs.

In addition, the bill includes a procedure by which to provide federal help on an emergency basis to states in managing a fishery in jeopardy.

We strongly support the concepts embodied in S. 2667 and address each of the bill's main provisions below.

Provision of Funds for State FMP Development

Adequate resources are needed by the commissions and states to ensure development of sound and comprehensive FMPs. The proposal to provide funds for FMP development and other work of the commissions through increased appropriations to the Anadromous Fish Conservation Act and Commercial Fisheries Research and Development Act is reasonable and should provide the continuity of funding sorely needed by the commissions and states. Because we agree with the use of

federal funds to assist states in management planning, we also agree that overview of FMP development by the Act's Administrator(s) is justified.

FMP Standards

Standards for FMPs should be considered as minimum requirements in the development of sound fishery resource conservation. The "Management Standards" are reasonable and incorporate the relevant and proven provisions of the Fishery Conservation and Management Act. In addition, we recommend adding a fifth Management Standard that would require addressing the critical relationship between near-shore fisheries production and fishery habitat:

> "Sec. 105(a)(5) Conservation and management measures shall recognize to the extent practicable critical habitat needs of the species or stock under management and interrelationships among species or stocks."

The "Required and Discretionary Plan Contents" outlined in S. 2667 are all reasonable. Especially critical is the requirement for FMPs to deliniate habitat supporting the fishery and specify measures to maintain and enhance such habitat.

All too often FMPs appear conceived in a vacuum, allocating fish between users but not addressing vital interrelationships between the fish species and other components of the marine ecosystem or the species' habitat. Lack of attention to habitat and ecological relationships in federal FMPs is a major oversight in the Fishery Conservation and Management Act. But, because coastal migratory species are even more closely tied to coastal wetlands, riverine

habitat, estuaries, and other near-shore areas than are many species inhabiting offshore federal waters, attention to habitat in coastal fishery management planning is crucial.

In addition to provisions listed, we recommend FMPs provide for plan revision/update as warranted by 1) continued stock monitoring and monitoring of the food base and/or essential habitat, and 2) annual review of the best biological information (in the absence of good information the FMP should specify additional data needs).

We view the Standards and Plan Contents provisions of S. 2667 as offering minimum criteria that will provide a high level of continuity, consistency, and coordination in the management planning process. Oversight by the Secretary in the FMP development process should be minimal. If the states' FMP adequately addresses the Standards and includes all required information, then the federal role simply should be to approve the states' actions. Management plans for fisheries under multi-state management ideally should be developed and enforced by the affected states. S. 2667 should forge a state-federal partnership role in fishery management planning where the federal role is to assist the states.

Preparation of a FMP by the Secretary should occur only when the states have demonstrated an inability to develop a plan that meets the minimum criteria listed in Sec. 105 and when a FMP is critically needed to protect the biological or economic viability of a species or stock.

Federal Enforcement

The possible need for occasional state-federal cooperation in enforcing fishery regulations does exist for those fisheries where sound conservation may require that a species or stock be managed in a coordinated manner throughout its range. A recognized impediment to such management of fisheries by the states/commissions alone is the lack of a means whereby the states in a fishery's management area can ensure enforcement of regulations in a state that does not implement acceptable regulations. In addition, when a group of states decides to develop a FMP, the group cannot ensure that all states in the affected management area will help develop the FMP. When problems in developing or implementing a FMP erupt, federal intervention should occur only after all practical avenues to alleviate the problem voluntarily by the state(s) have been exhausted. Naturally, where management or lack thereof is jeopardizing the biological or economic viability of a fishery, swift state-federal action may be needed as outlined in Sec. 110.

Additional Comments

In general the power granted the Secretary by S. 2667 is too great. We clearly recognize a need for federal assistance in managing interjurisdictional fisheries; however the states' right to manage fish in their internal waters must be preserved to the extent possible. We offer our assistance to you and Committee staff to help develop language that balances the federal-state roles, especially in provisions outlined in Secs. 106, 107, and 108.

For fisheries considered needing conservation and management plans, the relationship between S. 2667 and the Fishery Conservation and Management Act (FCMA) should be more clearly specified than the Act, especially Section 104(b)(A), provides. We suggest that for fisheries in need of management, where the fishery is conducted in both state and federal waters, the following rules apply:

1) where the majority of catch occurs in state waters, then Federal FMPs as provided for by FCMA should be consistent with provisions of the State FMPs; and

2) where the majority of catch occurs in federal waters, then State FMPs as provided for by S. 2667 should be consistent with Federal FMPs.

Although S. 2667 provides the public opportunity to comment to the commissions and Secretary on "Lists of Fisheries to be Managed," we find the only opportunity for public comment on FMPs is provided after plans have been completed and submitted to the Secretary for approval. Because public input in the development of FMPs is so important, we urge that S. 2667 direct the commissions to provide adequate opportunity for public comment during the plan development process.

In any scheme of federal assistance in fishery management planning for coastal migratory species, responsibility should be shared between the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. These agencies have dual responsibility

for many of the coastal migratory species and the habitat primarily occupied by those species. The breakdown of responsibility between the two agencies in S. 2667 appears reasonable. However we suggest that the Act specify that for fisheries where one agency has lead responsibility, all decisions be made "in consultation with" the other agency. To formalize agreements between the two agencies we recommend that all responsibilities for shared administration be specified by Memorandum of Agreement.

Given the existence of highly complex federal, state, and tribal programs for managing salmon in the Pacific Coast States, we do not feel that the management planning outlined in S. 2667 would contribute to better fishery management if applied to these fisheries. Therefore we recommend excluding salmon fisheries on the Pacific Coast from provisions of S. 2667.

Because S. 2667 appears to apply only to states party to a commission, provisions to ensure continued cooperation among states within the framework of the commissions may be needed. The basic premise of the legislation is that management of some fisheries requires that conservation measures be coordinated and enforced throughout the range of a species/stock, i.e., all states within the management area must cooperate. If a state decides <u>not</u> to cooperate in developing or implementing a FMP, but remains party to a commission, the provisions of S. 2667 would apply. To escape the provisions of S. 2667 it appears all a state has to do is withdraw its membership in the commission. There is no requirement that a state must belong to a commission, nor should there be. However, we

urge that all provisions of S. 2667 apply to states within the management unit of a species/stock, regardless of membership status in a commission. We believe the commissions will continue to function because it will be in a state's best interest to continue to participate in FMP plan development.

* * *

Mr. Chairman, we hope these comments have been useful to you in your consideration of the Federal Government's role in the present emergency situation facing Atlantic Coast striped bass. In addition, we would be pleased to work with you and your staff more closely to detail our concerns on comprehensive fishery management planning that addresses the national concern of managing coastal migratory species, including improved management of striped bass. We believe your leadership in developing these concepts is critical to ensuring the continued viability of our coastal fishery resources. Thank you for the opportunity to express our views.

Resolution No. 28

UNIFIED STRIPED BASS MANAGEMENT PROGRAM

WHEREAS, in order to survive, the striped bass or rock fish populations must have a dominant hatch every six years, and results from the 1976 hatch show it is insufficient; and

WHEREAS, man continues to pollute and poison spawning grounds of striped bass with a bewildering variety of chemicals such as PCB's and Kepone; and

WHEREAS, harvesting techniques of commercial fishermen permit the taking of big brood fish; and

WHEREAS, existing laws and regulations do not adequately protect the species, and state statutes are inconsistent;

NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation, in annual meeting assembled March 24-27, 1977, in Washington, D.C., hereby calls upon the federal and state agencies responsible to develop a unified striped bass management program which stresses fisheries conservation practices protecting immature fish and requires uniform regulations on the harvest, in both inland waters and within the 200-mile U.S. fisheries zone; and

BE IT FURTHER RESOLVED that this organization urges the appropriate agencies to initiate and complete any scientific studies which may be necessary to ensure the sound management of striped bass throughout its ranges; and

BE IT FURTHER RESOLVED that the National Wildlife Federation calls upon sport and commercial fishermen alike to lend their vigorous support to those governmental agencies which are endeavoring to curb and eliminate chemical pollution.

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036 -202—797-6800

Resolution No. 14

STRONGER MANAGEMENT EFFORTS FOR MARINE STRIPED BASS POPULATIONS

WHEREAS, pressures on this limited resource are strong and increasing due to the high market value of marine striped bass and growth of recreational and commercial fishing industry, despite a decline in population levels;

WHEREAS, the major Chesapeake Bay spawning areas have not produced a dominant year class of the species since 1970; and

WHEREAS, the species and its fishery occur predominantly within three (3) miles of the coast from Maine to North Carolina, management jurisdiction for marine striped bass resides with the states rather than the Federal Government; and

WHEREAS, this coastal migratory stock is subject to varying laws and regulations of twelve (12) states and two (2) interstate commissions with a lack of coordination or cooperation; and

WHEREAS, many attempts have been made to manage this fishery in the past, but these attempts thus far have been unsuccessful. The present magnitude and efficiency of both commercial and recreational fisheries may deplete the resource levels from which recovery is slow or impossible; and

WHEREAS, funding for research is too limited and uncoordinated;

NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation, in annual meeting assembled March 18-21, 1982, in Milwaukee, Wisconsin, hereby recognizes that the migratory marine striped bass which ranges from Maine to North Carolina is a species in need of stronger management efforts, including greater cooperation among the states and commissions responsible for its welfare; and

BE IT FURTHER RESOLVED that this organization stresses the vital and urgent need for continued funding under present legislation to satisfactorily conclude the mandate encompassed in the Chafee amendment to Public Law 89-304.

STRIPED BASS EMERGENCY COUNCIL
27 Fort Avenue
Boston, Massachusetts 02119

Dick Russell, president

Tel.:(617) 442-8708

TESTIMONY CONCERNING THE COASTAL MIGRATORY FISH CONSERVATION ACT
AND OTHER LEGISLATIVE PROPOSALS TO PROTECT THE
STRIPED BASS
SENATE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION (September 19, 1984)

The Striped Bass Emergency Council (Dick Russell, President) believes that the bill (S. 2667) by U.S. Senator John Chafee (R., R.I.) to amend the Anadramous Fish Conservation Act is the most far-reaching solution to the problems afflicting the Atlantic stock of striped bass that has yet been devised. We say this for the sake of not only the future of the bass, but for the sake of the future of every marine species increasingly afflicted by similar problems.

The experiences of the last five years endured by the members of the Atlantic States Marine Fisheries Commission in attempting to attain uniform interstate regulation of the migratory striped bass, on a voluntary basis by its member states, only goes a long way to prove that such a cumbersome process is inappropriate for effective fisheries management of any migratory species. By the time any one or even several states have managed to implement appropriate regulations for the sake of the striped bass' plight, the situation affecting the fish has changed so drastically that these regulations are too little too late. It has been an ideal situation for justifiable finger-pointing by one state at another, but a nightmare for overall management of the fishery, its fishermen and the fish. The situation is in many ways comparable to the period in our national history prior to the enactment of the Constitution of the United States of America; that is, the period of the Articles of Confederation, when each state (or colony) was attempting to accomplish much-needed tasks of a mutually necessary nature on a voluntary basis. Some objectives were realized, but overall obstruction and delay rather than cooperation and effective action were the rule. The striped bass has just suffered a similar fate.

The reluctance to manage our migratory marine species on a federal level has its roots in tradition and in an increasingly inappropriate double standard. We now see little difficulty, political or scientific, in regulating the existence and harvest of creatures on the land, through a National Wildlife Act. Ducks, deer, pheasants and moose are land-based resources whose existence in finite numbers is obvious to even the most aggressive hunter. But until very recently a misconception has persisted about all creatures in the sea, as if they were replenished eternally from some mysterious hole in the bottom of the ocean floor. In the case of anadramous species such as the bass, this mistaken concept has persisted despite increasing awareness that their successful spawning in fresh-water tributaries is dependent upon pollution-free waters and some control of overfishing in spawning reaches. Somehow, the mystery of life below the surface of the water in general, and in the wide ocean in particular, has encouraged this misconception to persist. Added to this conceptual difficulty is a political one: the regulation of marine species close to shore, even when migratory by nature, was -- somewhat like slavery -- simply not dealt with by our Founding Fathers when they forged a consensus for a Federal Union. The issue was already too entrenched in the states' traditions and in sectional economic interests, and was left for future generations to deal with. Unfortunately, it has now been two hundred years and we still do not have a National Marine Species Act under the Constitution to parellel our widely accepted National Wildlife Act. And time is rapidly running out, not only for the anadramous striped bass but for many other anadramous marine species.

The alternatives facing you the Congress of the United States today are simple: take effective national action now and thus preserve the remaining stocks of striped bass and other increasingly threatened species, or be faced not only with the responsibility for these species' virtual extinction one by one but also with an increasingly aroused citizenry on species after species in the marine environment. Countless hours, days, weeks, months and now years have already been expended attempting unsuccessfuly to regulate the reproduction and harvest of migratory striped bass on a voluntary, cooperative, and states-"rights" basis, not to speak of the 25 million dollars of Federal taxpayers' money used

to study the striped bass emergency over the last five years. Dr. John Boreman reported last December, at the conclusion of the aforementioned study, that the maximum conservation effort should have been enacted "yesterday" to save the dwindling stock of Atlantic striped bass. The future now holds only a growing chorus of pleas for you to take similar action on a variety of marine species, unless and until you do in fact and in law enact comprehensive legislation to deal with this long-neglected anadramous marine species situation. To deal with these interrelated problems one by one, species by species, will only turn you and thousands of state officials and conservation groups throughout the country into beleaguered fire-fighters, on call for individual crisis after crisis. Please, instead, for the sake of this fish and others to come, as well as for all those who will otherwise have to expend countless hours and dollars putting out these fires, pass this or a similar bill in the current session of Congress.

Now I would submit the specific reasoning behind the necessity for a coastwide immediate moratorium on the possession of the Atlantic striped bass. As a fisherman, a journalist,and the President of the Striped Bass Emergency Council, I have been advocating for some time urgently needed measures to preserve this most magnificent of fish. It is abundantly clear from scientific studies that the striped bass is in danger of disappearing from the Atlantic coast as a viable fishing resource. Particularly given the poor condition of the 1984 index of "young-of-the-year" survival in the Chesapeake Bay -- the fourth such critical level in the last five years -- it is equally clear that only a coastwide moratorium can give the fish a fighting chance to come back. Efforts underway to clean up the Chesapeake Bay, the spawning habitat of up to 90% of the coastal migratory bass, will take many years to bear fruit. In the meantime, all we can do is stop keeping them..

The state of Maryland has recently seen the wisdom of such a moratorium. This was a courageous step to take, in the face of 350 years of fishing tradition, but one which was finally viewed by the majority of sports fishermen, charterboat captains, and even many commercial fishermen as the only thing left to do. Maryland officials, particularly

the scientific staff which so strongly advocated a moratorium, are to be commended. One can only hope that the action has not come too late. The two-year-old striped bass residing within the Chesapeake Bay will still be vulnerable to fishermen until January 1st. If these are fished hard, it may take a much longer period for the stocks to recover. Tragically, 90 per cent of the striped bass seen by scientists on the spawning grounds last spring were these same two-year-old fish. This means that the mature fish of spawning age are close to being eliminated along the Atlantic coast. The remainder of the adult spawning population must be protected to the utmost immediately. Maryland watermen have had to give up the small bass upon which they depended for a portion of their livelihood. How can fishermen in other states, who pursue the large breeding female bass, not be asked to do the same?

Some have argued that a moratorium is not the answer, that the real cause of the problem is pollution, and that acid rain and other environmental factors should be addressed first. And, of course, these other factors must be addressed. Clearly, something in the environment is affecting the survival of newborn striped bass and other anadramous Chesapeake species. But the strong have survived whatever is killing so many of their kindred little fish each year following the spring spawning. Recently, I had a most enlightening conversation with Mr. Joe Boone, a senior biologist with the Maryland Tidewater Administration who has conducted the annual "young-of-the-year" surveys of fish survival in the Chesapeake since the program's inception in 1954. Mr. Boone stated:

"A lot of organisms can gradually adjust to less than fatal conditions. I like to use the analogy of pigweed in my corn. For years we used atrozine as a standard herbicide in corn. It worked beautifully; we had nice clean corn with hardly a weed in it. Then 5 or 6 years ago, I saw a couple of pigweeds in the field, but didn't pay much attention to them. Pigweed grows large, as tall as me. Next year there was maybe 3 or 4 times as much as before, and yet the same amount of atrozine was being applied. Within about four years, the atrozine had no effect whatsoever on the pigweed; it had completely adjusted. Now in the Chesapeake every year we see surviving healthy striped bass, in very small numbers. These could be the few that are slightly different genetically from all their brothers and

sisters, and can survive what killed the others. They may in time be able to transmit this immunity to their offspring. So by leaving these fish alone, we may be able to build up a genetically superior striped bass which can tolerate the degradation of the present environment. Yes, try to find out what the environmental problems are and to ameliorate them. But protect the fish you do have, and hope for the best. What other alternative do we have?"

Scientists have estimated that it will take at least 20 years to have a significant effect on reducing the levels of the various chemical pollutants in the Chesapeake Bay. This means that the ONLY hope for the striped bass is the preservation of existing stocks. As Dr. Philip Goodyear, a scientist with the U.S. Fish & Wildlife Service in the Federal Emergency Striped Bass Study, stated in testimony before the House of Representatives in March: A moratorium applied by the 12 states along the bass's Atlantic path would take perhaps ten to twelve years to restore the fishery. But under the 55% reduction plans recommended by the Atlantic States Marine Fisheries Commission, even if these were immediately implemented by every state, it would require "several decades" before the bass population could be restored to former levels.

A moratorium implemented by a single state, Rhode Island, last fall, had immediately visible results this summer in Massachusetts waters. Many fishermen, including myself, observed more small migrating striped bass than in many years -- most of which would otherwise have been caught in Rhode Island nets during the spring. Maryland has now asked all the coastal states to re-evaluate their earlier plans, in light of the growing emergency. Mr. William Gordon, Assistant Administrator for Fisheries with the National Marine Fisheries Service, wrote in a letter to Congresswoman Schneider last May -- four months before Maryland decreed its moratorium in conjunction with the latest disastrous striped bass survival index:

"A prudent manager would shut down the entire fishery at this point of decline and monitor it closely for signs that the decline has been arrested or, more positively, for signs of recovery. The biological status of the stocks, predominantly the Chesapeake

Bay stock, warrants the imposition of a moratorium to protect the remnants of that critical spawning population. Unfortunately, despite repeated prodding by concerned citizens and members of my staff since 1978, the states have not been able to act in a timely way. The Atlantic States Marine Fisheries Commission since 1983 has strongly encouraged the states to act, yet they do not appear ready to act in a decisive way in the near future. The time to act with a moratorium is now. I am convinced that we are running out of time and further delay of realistic constraint on the fishery may result in an even more costly remedy in the future."

Today, on behalf of the striped bass and thousands of people all along the coast who wish it preserved for future generations, I am asking you honorable gentlemen to take action. Enact legislation which will require the coastal states to implement a moratorium as quickly as possible in their waters and, failing this, empower the Secretary of Commerce with the authority to intervene immediately on an emergency basis and mandate this action.

The striped bass is a mysterious creature. The emotion it inspires in fishermen who know its meaning is an equally mysterious quality to behold. Our children should have the opportunity to know the wonder and struggle of pursuing a bass, the internal fulfillment of catching one. Somehow, again mysteriously, I believe that the striped bass is our national fish, intrinsically linked to our nation's story, past and future. I know that my own experiences in coming to know the bass are a vital part of my own soul. Surely, so noble a creature deserves our ultimate effort to keep it with us. Gentlemen, I implore you to do the most you can. Thank you.

TESTIMONY OF

LARRY B. SIMPSON, EXECUTIVE DIRECTOR
GULF STATES MARINE FISHERIES COMMISSION

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. MY NAME IS LARRY B. SIMPSON. I AM THE EXECUTIVE DIRECTOR OF THE GULF STATES MARINE FISHERIES COMMISSION. THE COMMISSION IS COMPOSED OF THE FIVE GULF STATES OF TEXAS, LOUISIANA, MISSISSIPPI, ALABAMA AND FLORIDA.

I APPRECIATE THE OPPORTUNITY TO PRESENT THE COMMENTS OF THE GULF COMMISSION CONCERNING SENATE BILL 2667 - CONSERVATION AND MANAGEMENT OF MIGRATORY FISH. WE WOULD LIKE TO THANK SENATOR CHAFEE FOR ADDRESSING SOME OF THE MARINE FISHERIES PROBLEMS WE FACE TODAY.

I MUST SAY THAT I UNDERSTAND ONLY PARTIALLY THE PROBLEMS FACING THE EAST COAST STATES WITH THEIR MULTI-JURISDICTIONAL FISHERIES RESOURCES. THE INITIAL EMPHASIS OF THE LEGISLATION IS TO BE DIRECTED AT THE EAST COAST STRIPED BASS POPULATIONS. THE LEGISLATION IS MUCH MORE FAR REACHING THAN JUST STRIPED BASS. THERE IS NO DOUBT THAT THE STRIPED BASS RESOURCE ON THE EAST COAST HAS SUFFERED A SHARP DECLINE. SOME OF THE FACTORS THAT MAY HAVE AFFECTED THE RESOURCE TO CAUSE THE DECLINE ARE INCREASED FISHING PRESSURE, BOTH RECREATIONAL AND COMMERCIAL, INCREASED URBAN AND RURAL POLLUTION AND LOSS OF DESIRABLE HABITAT. THE GULF COAST SHARES SOME OF THESE PROBLEMS WITH RESPECT TO OUR FISHERY RESOURCES; HOWEVER, OUR PROBLEMS WITH STRIPED BASS ARE MARKEDLY DIFFERENT. THERE IS NO COMMERCIAL FISHERY AT THIS TIME FOR STRIPED BASS IN THE GULF OF MEXICO. THE MAIN OBJECTIVE OF OUR STATES WITH THE STRIPED BASS RESOURCE IS TO REESTABLISH A NATURALLY REPRODUCING POPULATION OF STRIPERS BY INTRODUCING HATCHERY SPAWNED AND CULTURED FINGERLINGS BACK INTO THE RIVER

SYSTEMS THAT ONCE HAD THESE NATIVE NATURALLY REPRODUCING POPULATIONS. STRONG EFFORTS BY INDUSTRY IN THE NORTHERN GULF OF MEXICO COASTAL AREAS TO CLEAN UP THEIR DISCHARGES HAS MADE THIS POSSIBLE IN AREAS THAT WERE IN RECENT YEARS NOT SUITABLE FOR THE FISH TO LIVE. WE STILL HAVE PROBLEMS WITH POLLUTION, BUT THE RESEARCH GOAL FOR OUR ANADROMOUS PROGRAMS WITH STRIPED BASS ARE AIMED AT ESTABLISHING THE CRITICAL MASS REQUIRED TO GET A NATURALLY REPRODUCING POPULATION. WE FEEL WE ARE CLOSE TO SUCCESS. TAG RETURNS AND REPORTS OF CATCHES OF STRIPED BASS BACK TO THE GULF COAST RESEARCH LABORATORY WHICH CULTURE AND RELEASE THE FINGERLINGS ARE ENCOURAGING. THE RETURNS ARE FROM RECREATIONAL FISHERMEN AND THE LAB'S OWN SAMPLING AND ASSESSMENT WORK.

THE GULF HAS UTILIZED A STATE/FEDERAL FISHERIES MANAGEMENT PROGRAM TO ADDRESS THE NEEDS OF FISHERIES RESOURCES THAT MOVE BETWEEN OR ARE BROADLY DISTRIBUTED AMONG TERRITORIAL WATERS OF TWO OR MORE STATES OR THE TERRITORIAL WATERS AND AREAS SEAWARD THEREOF.

THE BOARD, ESTABLISHED IN 1971, WAS CREATED TO ASSIST THE STATES IN THEIR MANAGEMENT OF THESE TYPE FISHES. WE HAVE DEVELOPED AND IMPLEMENTED A MENHADEN MANAGEMENT PLAN WHICH RECENTLY WAS UPDATED AND STILL SERVES TO MANAGE THE NATION'S LARGEST VOLUME FISHERY. WE HAVE DEVELOPED A SHRIMP MANAGEMENT PLAN WHICH SERVED AS THE BASIS FOR THE CURRENT MANAGEMENT PLAN DEVELOPED BY THE GULF OF MEXICO FISHERY MANAGEMENT COUNCIL.

PROFILES WITH RECOMMENDATIONS FOR MANAGEMENT HAVE BEEN DEVELOPED FOR RED DRUM/SPOTTED SEA TROUT, BLUE CRABS AND MACKERELS. THE GULF STATES FEEL THIS APPROACH HAS BEEN HIGHLY SUCCESSFUL AND IS COMFORTABLE WITH THIS TYPE INSTITUTIONAL ARRANGEMENT. THE GULF COAST IS COMPOSED OF ONLY FIVE STATES VS. FIFTEEN STATES ON THE EAST COAST. THIS REDUCED NUMBER OF JURISDICTIONS IS ALSO EASIER TO WORK WITH. SOME OF THE STATES HAVE EXPRESSED CONCERN THAT AMENDMENTS TO THE 88-309 COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT AND 89-304 ANADROMOUS FISH CONSERVATION ACT, MIGHT LEAVE OPEN A POSSIBILITY OF OTHER UNWANTED AMENDMENTS TO LEGISLATION THAT IS FUNCTIONING EFFECTLY AT PRESENT.

SOME STATES ARE CONCERNED THAT THIS LEGISLATION WOULD RESULT IN FURTHER PRELMPTION OF STATE AUTHORITY TO MANAGE THESE FISHES BECAUSE OF THE ABILITY OF THE SECRETARY OF COMMERCE IN SECTION 104 AND 108 TO MAKE MODIFICATIONS OF THE PRIORITY LIST OF SPECIES TO BE MANAGED AND APPROVAL OF PLANS AS CONSISTENT WITH STANDARDS AND OTHER FEDERAL LAW. THIS TYPE OF APPROVAL MECHANISM HAS BEEN, IN THE CASE OF THE REGIONAL FISHERY MANAGEMENT COUNCILS UNDER MFCMA, VERY CONTENTIOUS. THAT IS THE SECRETARY OF COMMERCE, THROUGH THE NATIONAL MARINE FISHERIES SERVICE, HAS INSERTED ITS ACTIONS OVER THE OBJECTION OF THE COUNCILS.

WHILE THE GULF STATES ARE SYMPATHETIC TO THE NEEDS AND DESIRES OF OUR SISTER COMPACT COMMISSIONS, THE GULF COMMISSION WOULD RECOMMEND THAT THE GULF STATE-FEDERAL FISHERIES MANAGEMENT BOARD APPROACH TO MANAGEMENT OF INTERJURISDICTIONAL TERRITORIAL SEA FISHES BE USED FOR THE GULF AREA AND BE AUGMENTED WITH FUNDING TO ENABLE ADDITIONAL WORK WITH THESE RESOURCES.

In past years the funding for the State/Federal Program has not been sufficient to adequately fund the needed monitoring, research and administration programs of the Board. The Gulf Commission has at times utilized its own funding resources to get critical work accomplished.

Thank you for the opportunity to comment on this legislation. If we can be of further assistance, please call on us.

MEMBER STATES
ALASKA
CALIFORNIA
IDAHO
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EXECUTIVE DIRECTOR
LAWRENCE D SIK
TREASURER
G. L. FISHER

September 13, 1984

The Honorable John H. Chafee
Committee on Environment and Public Works
United States Senate
410 SDOB
Washington, DC 20510

Re: S.2667

Dear Senator Chafee:

Thank you for this opportunity to provide comments on the Coastal Migratory Fish Conservation Act, S.2667. We appreciate the interest shown by you and the Committee in the conservation of marine and anadromous fishery resources--a goal we all share. We also depend on your continued attention to protection of aquatic environments, which is vital to the long-term health of the fisheries. While we would much rather be testifying in person, other important commitments preclude this. Nonetheless, I hope that our comments will be considered and entered into the record.

The Pacific Marine Fisheries Commission represents the States of Alaska, Washington, Idaho, Oregon and California. The Commission is prepared to make a few general comments at this time and may have more definitive comments after our November Annual Meeting. This is a major piece of legislation significantly affecting the way territorial sea fisheries are managed, thus you deserve our thorough review of it. Our comments relate only to Pacific Coast conditions and concerns. The Pacific Fishery Management Council, which has management responsibility in the 3-200 mile zone off Washington, Oregon and California, concurs with these views.

In summary, we do not believe that comprehensive national legislation addressing all migratory species in the territorial sea and inland waters is needed. For the Pacific Coast, a different regulatory scheme in the territorial sea is unnecessary. What is needed is a stable source of funding for existing regional fishery management programs, both within and beyond the territorial sea.

The remarks introducing this bill relate to Atlantic Coast species and problems. The striped bass problem is discussed in detail, and other Atlantic species such as river herring, shad and weakfish are mentioned as declining resources. If Congress believes that there are similar problems on the Pacific Coast which are not being addressed by existing arrangements, we would be anxious to know of them and to try to address them. It is our belief that the regional fisheries which require management on the West Coast and off Alaska currently are being managed either by the Pacific and North Pacific

Councils or by the respective States on a cooperative basis. After the Pacific and North Pacific Councils were established, they addressed all of the regional fisheries which required management, and determined which of those fisheries required a Council plan and which could continue to be managed by State regulation.

For many years, the Pacific States have had very strong domestic fishery management programs. These States continue to collect, with Federal assistance, the domestic fishery data required not only for State but for Federal management as well. They also continue to manage all fisheries in the territorial sea, consistent with Council plans in the case of fisheries predominantly outside three miles, or in cooperation with other States in the case of coastal fisheries which occur off two or more States. There are few interstate species harvested predominantly in the territorial sea off the Pacific Coast, and these are being managed effectively by the individual States on a cooperative basis. The Dungeness crab fishery is an example. Under the State/Federal Fisheries Management Program, an interstate plan was developed which formed the basis of a draft fishery management plan prepared by the Pacific Council. The Council and the States determined that this fishery is already adequately managed by the States on a cooperative basis and therefore the plan was never adopted by the Council.

We concur with the importance of interstate and State/Federal cooperative management planning for regional fisheries. This activity occurs both via the Council mechanism and via the State/Federal Fisheries Management Program in the National Marine Fisheries Service. These activities must continue and require stable, long-term funding to be successful.

The three Commissions are working with the National Marine Fisheries Service to develop a policy on interjurisdictional fishery management which recognizes the need for coordinated management planning for all regional fisheries whether or not covered by the Magnuson Act. This policy recognizes the needs of different regions. On the Pacific Coast, we think that existing institutions can continue to get the job done, as long as adequate funding exists for planning, enforcement, monitoring, research and habitat protection.

With regard to funding, we appreciate the fact that this legislation would authorize additional appropriations under the grant programs for interstate management planning. Existing appropriations cannot cover any new responsibilities, and we cannot afford to erode our capability to meet existing requirements, which are becoming more difficult to meet each year. On the Pacific Coast, these additional funds would likely be better spent on adequate research and data collection for fisheries currently being managed under existing Council or State programs.

A few comments concerning management of Pacific salmon probably are appropriate. These resources are managed by numerous Federal and State agencies, Indian tribes, two regional councils, the Power Planning Council,

the Government of Canada, and two international commissions. In addition, the Salmon and Steelhead Advisory Commission was established to address salmon management problems. It is doubtful that an additional institutional arrangement for Pacific salmon would be beneficial.

That concludes our comments at this time. Thank you again for this opportunity to comment, and for your interest in wise management of marine and anadromous fisheries.

Sincerely,

Lawrence D. Six
Executive Director

LDS:mmd

STRIPERS UNLIMITED
P. O. Box 45
So. Attleboro, Mass. 02703

A Service Club
for Striper Fishermen

S 2667-TESTIMONY

My name is Robert B. Pond and I am executive director of Stripers Unlimited, Inc. We have been intimately concerned with the Chesapeake Bay strain of striped bass for 14 years, in earlier years attempting to hatch and raise the striped bass but after observing the many problems in the developing eggs and larvae for three years, we spent the remaining years monitoring the annual spawning runs, observing and photographing the problems in the development of the eggs and larvae.

We, therefore, support S 2667 and it's call for a moratorium coastwide and an adequate management plan for preserving the remaining stocks. We would urge, however, that the moratorium be continued until the stocks have been sufficiently regenerated. A moratorium along the lines of the Maryland ban which requires that the young of the year index reach and maintain an average of 8 for three consecutive years would be desirable. It is anticipated that this will take until 1990-1993.

There must be some protection for the breeders over 30 lbs. Last spring all 28 females captured for the Maryland hatchery at Cedarville were between 30 and 50 lbs. These trophy fish are being harvested at an unprecedented rate all along the Atlantic coast. These are all the breeders we have and each one taken diminishes the chance of a successful resurgence of the stocks. There is no breeding stock coming along behind these large breeders except for the '82 year class which will be subjected to intensive fishing pressure this fall and early winter. There is a dearth of young males during the spawning season and these sparse stocks of males are being drastically overharvested in Chesapeake Bay.

The unique floating egg of the Chesapeake Bay strain is invaluable for future propagation efforts in other river systems which have been dammed and it is essential that we preserve this unique gene pool for posterity.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

SEP 5 1984

Mr. Robert B. Pond
Stripers Unlimited
P.O. Box 45
South Attleboro, Massachusetts 02703

Dear Bob:

This is in further response to your request made at the January 12, 1984, meeting of the Emergency Striped Bass Study (ESBS) Group regarding your hypothesis to explain the decline of striped bass populations in Chesapeake Bay. Dr. Goodyear, a member of the project management team for the ESBS, wrote to you on this subject on February 10, 1984, and again on April 19, 1984.

Dr. Nick Parker of the U.S. Fish and Wildlife Service was asked to evaluate your hypothesis of genetic change in striped bass as a possible, if not predominant, agent responsible for the decline of this species in Chesapeake Bay. Dr. Parker discussed your hypothesis with researchers from the following institutions: Maryland's Chesapeake Biological Laboratory, National Marine Fisheries Service's Oxford Laboratory, Johns Hopkins University, University of Maryland, Maryland Department of Natural Resources, Baltimore Gas and Electric Company, Auburn University, Memphis State University, National Science Foundation, National Marine Fisheries Service, and Fish and Wildlife Service. He was unable to find any support for your hypothesis. Furthermore, none of the researchers contacted could suggest any practical method of testing the hypothesis.

In addition, Dr. Parker traveled to Maryland during the period April 24 - May 18, 1984, to examine striped bass larvae for evidence supporting your claim that, as embryos, they undergo abnormal development. He determined that total dissolved solids has a major impact on larval development, and noted further that environmental conditions greatly influence the appearance, strength, and bouyancy of both fertilized and unfertilized eggs. From his examination he thus concluded that environmental factors alone can easily account for the high mortality of larval bass observed in recent years.

As we understand it, your hypothesis states 1) that striped bass no longer utilize the oil globule in the egg as they did in the 1950's and 2) the larval fish no longer develop a working syncytium around the oil globule. Dr. Parker was able to establish that the larvae do in fact develop a working syncytium around the oil globule. He also asked Ms. Alice Lippson of the Oxford Laboratory to comment on your hypothesis. Ms. Lippson, as you will recall, made the illustrations of the development of striped bass in the 1950's that you rely on for the claim that the developmental process has changed. Her response was straightforward; she does not support your hypothesis of genetic change. Furthermore, she states that she did not observe any differences in oil globule or yolk absorption in specimens from the Nanticoke and Potomac Rivers in the mid-1970's compared with those of her earlier work in the 1950's.

We conclude from the above that there is little if any community support for the genetic hypothesis, but strong technical arguments against it. Your interest in this matter is greatly appreciated. Please let us know if you would like further information of any points we have tried to make.

Sincerely yours,

W. Peter Jensen

Joseph H. Kutkuhn
Co-Chairmen, Emergency Striped Bass Study Group

STRIPERS UNLIMITED
P. O. Box 45
So. Attleboro, Mass. 02703

A Service Club
for Striper Fishermen

September 10, 1984

Joseph H. Kutkuhn
Co-Chairman, Emergency Striped Bass Study Group
U.S.Dept. of the Interior
Fish & Wildlife Service
Washington, D.C. 20240

Dear Mr. Kutkuhn:

Re your letter of September 5th concerning the striped bass problems, we do not feel that Dr. Goodyear's response to the hypothesis of genetic damage answers the questions that we raised.

As for the evaluation by Dr. Nick Parker of the U.S.Fish & Wildlife Service, you keep referring to larval development, while we are not only concerned with larval development, but with embryonic development as well. I was with Dr. Parker and observed, 6 days after fertilization, the development of the regular circulatory system and the beginning of blood flow. However, as you will see from Dr. Peter Armstrong's work, the syncytium we are talking about, which covers the oil globule, should appear in 3 days after fertilization. This did not take place. We are enclosing papers on the syncytium for your perusal.

Alice Lippson, last year, in Ocean City, Md., after seeing our Maryland egg and larval display, stated to me, in the hearing of Avis Boyd, that her observations in earlier years did show that oil and yolk were absorbed more or less simultaneously, as her graphics also show. I am beginning to doubt the integrity of some professionals concerned with the striped bass situation.

Serge Doroshov, in a paper published in 1970, stated that in the No. Carolina strain of striped bass (Weldon), the oil and yolk were absorbed more or less simultaneously, but that this was not the case with So. Carolina striped bass. He did not study the Maryland strain at that time. Later in a paper on his work in California, Doroshov stated that when he first studied striped bass from California, about half of the striped bass larvae absorbed oil and yolk more or less simultaneously, whereas today none do. He repeated this to us in conversations we had with him.

Since the Maryland females return to spawn from all up and down the coast and have been in varying environments, does it not seem strange that eggs from different females (28 this year) all exhibit the same problems and suffer massive mortality from pre-hatch on? These problems exist from fertilization on and are the same as have been observed since 1971.

Dr. Richard Wolke, fisheries pathologist from the University of Rhode Island, after examining our samples, stated the need for a developmental anatomist. He said we were looking in the wrong field, that fisheries biology would never answer our questions.

We must have a multi-diciplinary approach-fisheries biologists, biochemists, pathologists and developmental biologists. For over 10 years we have been seeking cellular study of the Maryland egg and have yet to see any movement in this direction, although it is mandated by the Chafee legislation.

What is the problem? Why do we have to fight tooth and nail for such a multi-diciplinary approach? What is the stone wall we keep running into? What is there to be afraid of?

These were some of the questions raised by Avis Boyd in a recent meeting with Senator Chafee. He admitted to being discouraged by the lack of progress in the fight for the stripers survival.

If something is not done soon, the matter will be moot-the breeders will have been destroyed. Last year all breeders captured for the Cedarville hatchery were between 30-50lbs and these are being harvested at an unprecedented rate. Even the 28 captured were extremely hard to come by and males were practically non-existent.

I hope that the enclosed papers and pictures will provide some enlightenment. These pictures of Maryland striped bass taken at Cedarville at 60 degrees Fahrenheit, agree closely with Dr. Hassler's chart on temperature and growth. They also agree closely with Dr. Armstrong's fundulus stages.

The problem relating to the syncytium is the fact that this is not a permanent structure, such as the permanant circulatory system observed at Cedarville, but a temporary system established by all embryos according to Dr. Wourms. It is established to remove the nutrients from the oil globule and is resorbed after all the oil has been absorbed by the larvae. (Bachop & Schwartz-page 351). Correction of this problem will require selective breeding as outlined in our endangered species petition.

That a fisheries biologist could mistake the two systems is an indication of the pressing need for a multi-diciplinary approach

At Edenton,Maryland striped bass were transferred to a clean environment In the third generation of breeding, many of the problems previously observed in the Maryland strain, such as early chorion rupture, lack of swim bladder inflation, etc., had been overcome, but not the lack of oil globule absorption. The unique bouyancy of the Maryland strain and the large oil globule were maintained to the third generation. These Maryland larvae suffered almost complete mortality.

We, at least, have to have minds open enough to look at the possibility of genetic damage before we lose everything. It is apparent that regulatory mechnisms are not working. NMFS announced that last year was the worst for harvest of stripers in over 50 years. Yet the slaughter goes on.

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I am also enclosing an article about Dr. John P. Wourms (Dr. Yardley is his colleague) so you will understand that he is one of the foremost scientists in his field (this also according to scientists from Woods hole Oceanographic Inst., Dartmouth, U. of Illinois and Harvard).

Again, I reiterate, the problem is in the egg and cellular study of the egg is vital. Dr. Parker, at the Annapolis hearing of the Chafee committee on June 28th, stated that the problem lay in the egg and possible viral infection of the larvae and he called for study of these problems.

I do hope that this letter clears up some of the continued misunderstandings that persist between Stripers Unlimited and the committee.

Sincerely yours,

Robert B. Pond
Executive Director

Enclosures:

1) Article on Dr. John P. Wourms

2) Animal Pathology Report-Dr. Richard Wolke

3) Letter from Dr. Darrell G. Yardley

4) Status & Abundance of Striped Bass in the Roanoke R. & Albermarle Sound,'56-80, Hassler, Hill, Brown & NCDNR

5) Syncytium of Oviparous Teleosts: Implications for Hypotheses of Yolk Utilization, Bachop & Schwartz

6) Time Lapse Cinemicrographic Studies of Cell Motility During Morphogenesis of Embryonic Yolk Sac of Fundulus heteroclitus, Peter Armstrong, 1980

7) Use of Small Fish in Carcigenicity Testing

8) Usefulness of the Hermophroditic Marine Fish, Rivulus Marmoratus, Koenig & Chasar, 1984

II

98TH CONGRESS
2D SESSION

S. 2667

To amend the Anadromous Fish Conservation Act, to increase the authorization for appropriations to implement emergency measures for the protection of Atlantic striped bass, to provide for the conservation and management of coastal migratory fish, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, APRIL 30), 1984

Mr. CHAFEE (for himself and Mr. PELL) introduced the following bill; which was read twice and referred jointly to the Committees on Environment and Public Works and Commerce, Science, and Transportation, by unanimous consent

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A BILL

To amend the Anadromous Fish Conservation Act, to increase the authorization for appropriations to implement emergency measures for the protection of Atlantic striped bass, to provide for the conservation and management of coastal migratory fish, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONSERVATION AND MANAGEMENT OF COASTAL MIGRATORY FISH

SECTION 101. SHORT TITLE.

This title may be cited as the "Coastal Migratory Fish Conservation Act".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Coastal migratory fish are of increasing commercial and recreational importance and economic benefit to the coastal States and to the Nation. The interest of the coastal States, as well as the Nation, requires the effective conservation and fair allocation of these resources.

(2) As a consequence of increased fishing pressure, environmental pollution, the loss and alteration of habitat, and the inadequacy of fishery conservation and management practices and controls, certain stocks of coastal migratory species have been severely reduced in number.

(3) Because no single government entity has full management authority throughout the range of coastal migratory species, the harvesting and conservation of these fish may be subject to diverse, inconsistent, and intermittent State and Federal regulation that results

in action or inaction that is detrimental to the long-term maintenance of fish stocks and to the interests of fishermen and the Nation as a whole.

(4) Fisheries management is a shared responsibility of great magnitude, rooted in the common property nature of fish stocks. Therefore Federal and State governments, as well as users, should contribute in appropriate ways to the conservation and management of coastal migratory species throughout their range.

(5) It is in the national interest to implement effective procedures and measures to provide effective interjurisdictional conservation and management of these species.

(6) An immediate response is needed to curtail further reduction of Atlantic striped bass populations.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this title—

(1) to support and encourage the development, implementation, and enforcement of interstate plans for the conservation and management of coastal migratory species;

(2) to provide grants to interstate commissions and coastal States to assist them in developing and implementing plans of that kind; and

(3) to provide emergency measures for conservation and management of migratory fisheries.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term "Act of 1976" means the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (16 U.S.C. 1801 et seq.).

(2) The term "coastal migratory species" means any species of fish or shellfish that—

(A) either—

(i) migrates among the coastal waters of two or more constituent coastal States, or

(ii) migrates between coastal waters and the exclusive economic zone; and

(B) is predominately harvested in a coastal region rather than in the exclusive economic zone.

(3) The term "coastal region" means the coastal waters of all constituent coastal States of a Commission.

(4) The term "coastal waters" means—

(A) all waters, whether salt or fresh, of a constituent coastal State shoreward of the baseline from which the territorial sea of that State is

measured, including but not limited to estuaries and embayments; and

(B) the waters of a constituent coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.

(5) The term "constituent coastal State" means any State that is party to the Interstate Commission compacts (identified in paragraph 7) as of December 31, 1983.

(6) The term "conservation and management standards" means those standards listed in section 105(a).

(7) The term "Commission" refers to the following:

(A) The Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77–539 and 81–721.

(B) The Gulf States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Law 81–66.

(C) The Pacific Marine Fisheries Commission established under the interstate compact consent-

ed to and approved by the Congress in Public Laws 80–232, 87–766, and 91–315.

(8) The term "fishery" means one or more stocks of a coastal migratory species that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, and economic characteristics.

(9) The term "fishing" means—

(A) the catching, taking, or harvesting of members of a coastal migratory species;

(B) the attempted catching, taking, or harvesting of members of a coastal migratory species; and

(C) any operation within coastal waters in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include—

(i) any scientific research activity that is conducted from a scientific research vessel; or

(ii) incidental catching, taking, or harvesting that occurs in the course of commercial or recreational fishing.

(10) "Secretaries" means the Secretary of Commerce and the Secretary of the Interior for joint ad-

ministration of programs to establish regional fishery management plan lists and for invoking emergency measures. Administrative responsibility for individual fishery plans rests with the appropriate Secretary as defined in paragraph (11).

(11) "Secretary" means the Secretary of the Interior or the Secretary of Commerce for the administration of fishery management plans. The Secretary of the Interior shall be responsible for fishery plans for anadromous fish, whereas, the Secretary of Commerce shall be responsible for fishery plans for other than anadromous fish.

(12) "Anadromous fish" means fish that normally migrate from the sea to rivers and the headwaters of estuaries to spawn.

SEC. 104. LISTS OF FISHERIES FOR WHICH CONSERVATION AND MANAGEMENT PLANS REQUIRED.

(a) COMMISSION LISTS OF FISHERIES TO BE MANAGED.—(1) Within one year after the date of the enactment of this title, each Commission shall prepare and submit to the Secretaries a list of those fisheries that are within the coastal region under its jurisdiction and that require conservation and management. Each Commission must hold at least one public hearing in conjunction with the preparation of the list in order to obtain public views on the issues.

(2) The list prepared and submitted under paragraph (1) by a Commission must—

(A) rank the fisheries on the basis of the relative need for conservation and management, with the fishery that most urgently requires conservation and management being listed first;

(B) specify a date by which a fishery management plan for each listed fishery shall be submitted to the Secretary for review under section 106; and

(C) be approved by not less than two-thirds of the voting membership of the Commission.

(3) The lists required under this subsection, and any amendment recommended thereto under subsection (b)(2), must be accompanied by the information and reasons on which the lists or amendments are based.

(b) PROMULGATION OF LISTS BY SECRETARIES.—(1) Within sixty days after receiving a list from a Commission under subsection (a)(1), the Secretaries shall—

(A) review the list, taking into account whether any of the coastal migratory species on the list could be adequately managed under title III of the Act of 1976 and any other factor considered relevant by the Secretary;

(B) make such modifications (consistent with the criteria in subsection (a)(2) (A) and (B)) to the list as the Secretaries considers necessary or appropriate; and

(C) initiate the adoption of the list, as so modified, as a regulation by publishing it as a proposed regulation under the appropriate rulemaking procedures, together with a statement of the reason for each modification.

(2) A Commission may at any time propose amendments to the list promulgated under paragraph (1) for that Commission. The procedures set forth in paragraph (1) shall apply to recommended amendments.

SEC. 105. CONSERVATION AND MANAGEMENT STANDARDS AND PLAN CONTENTS.

(a) STANDARDS.—Each fishery management plan prepared under this title shall be consistent with the following standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of a coastal migratory species shall be managed as a unit throughout its range, and interrelated stocks shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different constituent coastal States, and any allocation on assignment of fishing privileges among fisherman of the various constituent coastal States shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(b) REQUIRED PLAN CONTENTS.—A fishery management plan prepared by a Commission or the Secretary for a fishery under this title must—

(1) contain the conservation and management measures applicable to fishing within the coastal region that are—

(A) necessary or appropriate for the conservation and management of the fishery, and

(B) consistent with the conservation and management standards and the other provisions of this title, and not inconsistent with other Federal law;

(2) contain a description of the fishery, including, with respect to coastal waters of each constituent coastal State, the number of vessels involved, the type and quantity of fishing gear used, the coastal migratory

species involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, and any commercial or recreational interest in the fishery;

(3) assess and specify the present and probable future condition of the fishery and habitat supporting the fishery, and include a summary of the information utilized in making the specification;

(4) specify measures needed to maintain, restore and enhance habitat necessary for maintenance or improvement of the fishery and its food base;

(5) contain a description of the laws and the regulations or other administrative authority under which each constituent coastal State will enforce the fishery management plan within its coastal waters;

(6) specify the pertinent data that shall be submitted to the Secretary by the Commission with respect to the fishery for purposes of enabling the Secretary to monitor the carrying out of the plan under section 107, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the extent of enforcement by each coastal State; and

(7) specify that time, taking into account the legal, scientific, and physical resources of each constituent coastal State, by which all constituent States must commence implementation of the plan.

(c) DISCRETIONARY PLAN CONTENTS.—A fishery management plan prepared by a Commission or the Secretary for a fishery under this title may—

(1) require permits to engage in fishing within the fishery;

(2) designate zones within coastal waters where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations on the catch of the coastal migratory species;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the plan;

(5) establish a system for limiting access to the fishery; and

(6) prescribe such other measures, requirements, or conditions and restrictions, whether applicable

within the coastal region or the coastal waters of one or more (but not necessarily all) constituent coastal States, as are necessary and appropriate for the conservation and management of the fishery.

SEC. 106. PREPARATION OF PLANS BY COMMISSIONS AND REVIEW BY SECRETARY.

(a) PREPARATION AND SUBMISSION OF FISHERY MANAGEMENT PLANS BY COMMISSION.—Each Commission shall prepare and submit to the Secretary, within the period specified in the applicable list established under section 104(b), a fishery management plan for each fishery on that list. For good cause shown, the Secretary may extend the period for the preparation and submission of a fishery management plan under this subsection by not more than one hundred and eighty days.

(b) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.—After the Secretary receives a fishery management plan prepared by a Commission (the date of receipt of which is hereafter in this section referred to as the "receipt date"), the Secretary shall—

(1) immediately commence a review of the management plan to decide whether it is consistent with the conservation and management standards and other provisions of this title, and not inconsistent with other Federal law, and

(2) within thirty days after the receipt date publish in the Federal Register a notice stating that the plan is available and that written data, views, or comments of interested persons on the plan may be submitted to the Secretary during the sixty-day period beginning on the date on which the notice is published.

(c)(1) A fishery management plan received by the Secretary under subsection (b) shall be treated as having been approved by the Secretary if—

(A) the Secretary does not notify the Commission in writing of his disapproval, under paragraph (2), of the plan before the close of the one hundred and twentieth day after the receipt date; or

(B) at any time subsequent to the ninetieth day after the receipt date and before such one hundred and twentieth day, the Secretary notifies the Commission in writing that he does not intend to disapprove the plan.

(2) If after review under subsection (b) the Secretary decides, after taking into account the data, views, and comments submitted by interested persons, that the plan does not meet the requirements set forth in section 105, the Secretary shall notify the Commission in writing of his disapproval (in whole or in part) of the plan. The notice shall specify—

(i) the reasons on which the disapproval is based; and

(ii) recommendations concerning revisions to the plan that, if agreed to by the Commission, would overcome the disapproval.

(3) If within sixty days after the date of a notification of disapproval under paragraph (2), the Commission submits revisions to the fishery management plan, the Secretary shall decide, by the thirtieth day after the date of such submission, whether the revisions are sufficient to warrant approval of the plan. Upon request of the Commission or any constituent coastal State, the Secretary shall provide opportunity for consultation regarding the revisions before the decision is made.

(d) FINAL ACTION ON COMMISSION PLAN.—If the Secretary decides under subsection (c)(3) that the revisions submitted by the Commission to a fishery management plan—

(1) are sufficient to warrant approval, the plan shall be considered to be approved by the Secretary on the thirtieth day referred to in subsection (c)(3); or

(2) are not sufficient to warrant approval, the Secretary shall prepare a fishery management plan under section 107 for the fishery.

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(e) AMENDMENTS TO APPROVED PLAN.—A Commission may at any time submit to the Secretary proposed amendments to a fishery management plan that is in effect within the coastal region under its jurisdiction. Subsections (b), (c), and (d) shall apply to an amendment proposed under this subsection in the same manner and to the same extent as if the amendment were a fishery management plan submitted to the Secretary under subsection (a).

(f) FEDERAL AGENCY COOPERATION.—(1) A Commission may secure directly (on a reimbursable basis or otherwise) from any Department or agency of the United States information necessary to enable it to carry out its functions under this title. Upon request of the Chairman of a Commission, the head of such Department or agency shall furnish such information to the Commission.

(2) Upon request of a Commission, the head of any Department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that Department or agency to the Commission to assist it in carrying out those functions.

(g) CONFIDENTIALITY.—Each Commission shall establish procedures applicable to it for ensuring the confidentiality of the statistics or other information that may by submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited

to, procedures for the restriction of Commission employee access to such information and the prevention of conflicts of interest. The procedures required to be established under this subsection must, in the case of information submitted to the Commission by any State, be consistent with the laws and regulations of that State concerning the confidentiality of that information.

SEC. 107. PREPARATION OF PLANS BY SECRETARY.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall prepare a fishery management plan, consistent with the conservation and management standards and other provisions of this title and not inconsistent with other Federal law, for a fishery as follows:

(1) If a Commission fails to submit a fishery management plan to the Secretary within the period provided for under section 106(a), the Secretary shall prepare the plan within one year after the close of that period.

(2) If the Secretary disapproves or partially disapproves a fishery management plan and the Commission does not submit revisions thereto within the period specified in section 106(c)(3)(A), the Secretary shall prepare the plan within six months after the close of that period.

(3) If the Secretary is required to prepare the plan by reason of section 106(d)(2), the Secretary shall prepare the plan within three months after the date on which the Secretary decides that the Commission revisions are not sufficient to warrant approval.

(b) INCLUSION OF CERTAIN PLAN PROVISIONS PREPARED BY THE COMMISSION.—If the Secretary is required to prepare a fishery management plan under subsection (a)(2) or (3), the plan must contain all provisions of the plan prepared by the Commission that were not cause for disapproval under section 106.

(c) ACTION AFTER PREPARATION.—(1) Whenever the Secretary prepares a fishery management plan under subsection (a), the Secretary shall, within thirty days after the day on which the preparation is completed—

(A) submit the plan to the appropriate Commission for consideration and comment; and

(B) publish in the Federal Register a notice stating the the plan is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the sixty-day period beginning on the date on which the notice is published.

(2) The Commission must submit its comments and recommendations, if any, regarding the plan to the Secretary

before the close of the sixty-day period referred to in paragraph (1)(B). Before the close of the thirtieth day after the date on which the comments and recommendations of the Commission are submitted, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under paragraph (1)(B), shall make such modifications to the plan as he considers necessary or appropriate and the plan, as so modified, shall be considered to be approved by the Secretary on that 30th day.

SEC. 108. IMPLEMENTATION OF PLANS BY CONSTITUENT COASTAL STATES; MONITORING.

(a) IN GENERAL.—Each constituent coastal State shall implement and enforce its repsonsibilities under each fishery management plan approved under section 106(c)(1) or 107(c)(2) in accordance with that plan. From the date of plan approval by the Secretaries, each constituent coastal State shall implement its responsibilities within one year, or within one hundred and eighty days subsequent to the next complete State legislative session, or as the date agreed to in the plan.

(b) MONITORING.—The Secretary shall monitor the implementation and enforcement of each fishery management plan through information provided by the Commission. The monitoring shall be based on the reports to the Commission, required of the States under the fishery management plan, as

well as on such onsite investigations as the Secretary considers necessary or appropriate.

(c) UNSATISFACTORY STATE ACTION.—(1) If the Secretary, on the basis of monitoring conducted under subsection (b) or on the basis of Commission request, decides that one or more constituent States—

(A) have not placed an approved fishery management plan into effect within their coastal waters within the time specified in the plan, or

(B) are not satisfactorily implementing or enforcing their responsibilities under the approved fishery management plan; with the result that there is, or will likely be, a substantial and adverse effect on the carrying out of the plan, the Secretary shall notify the Commission and the appropriate States of the decision and initiate consultations to discuss the matters at issue.

(2) If after ninety days, the Secretaries decide that consultation under paragraph (1) is not resulting, or likely will not result in appropriate remedial measures being instituted by one or more of the constituent coastal States concerned, the Secretaries shall, by notice published in the Federal Register, declare a moratorium on fishing for the coastal migratory species covered by the fishery management plan—

(A) within the coastal region, if all consitituent coastal States were involved in the consultation under

this section and none are instituting appropriate remedial measures; or

(B) if subparagraph (A) does not apply, within the coastal waters of each constituent coastal State that was involved in the consultation under this section and is not instituting appropriate remedial measures.

SEC. 109. MORATORIUM.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "moratorium area" means the coastal region or coastal waters with respect to which a declaration under section 108(c)(2) (A) or (B) applies.

(2) The term "moratorium period" means the period beginning on the day on which a moratorium is declared under section 108(c)(2) and ending on the day on which the Secretaries publish notice in the Federal Register that they are satisfied that one or more of the constituent coastal States concerned have taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared.

(b) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium period, it is unlawful for any person—

(1) to engage in fishing within the moratorium area for the coastal migratory species to which the moratorium applies;

(2) to possess fish or shellfish that are caught, taken, or harvested in violation of paragraph (1);

(3) to transport in interstate commerce fish or shellfish that are caught, taken, or harvested in violation of paragraph (1); and

(4) to fail to return to water members of the coastal migratory species to which the moratorium applies that are caught, taken, or harvested in the moratorium area under circumstances described in section 103(9).

(c) PENALTIES AND FORFEITURES.—(1) Any person who is found by the Secretaries after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have knowingly committed an act that is unlawful under subsection (b), shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $5,000 for each violation. Each day of continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretaries by written notice. In determining the amount of such penalty, the Secretaries shall take into account the nature, circumstances, extend, and gravity of the prohibited act committed and, with respect to the violator, the degree of culpability, and history of prior violations, ability to pay, and such other matters as justice may require.

(2) Subsections (b) through (e) of section 308 of the Act of 1976 (16 U.S.C. 1858(b)–(e); relating to review of civil penalties, action upon failure to pay assessment, compromise, and subpenas) shall apply to penalties assessed under paragraph (1) to the same extent and in the same manner as if those penalties were assessed under subsection (a) of such section 308.

(d) CIVIL FORFEITURES.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or the result of, the commission of any act that is unlawful under subsection (b), shall be subject to forfeiture to the United States. All or part of the vessel may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States under a civil proceeding described in paragraph (2). The district courts of the United States shall have jurisdiction over proceedings under this subsection.

(2) Subsections (c) through (e) of section 310 of the Act of 1976 (16 U.S.C. 1860(c)–(e); relating to judgment, procedure, and rebuttable presumptions) apply with respect to proceedings for forfeiture commenced under this subsection to the same extent and in the same manner as if the proceeding were commenced under subsection (a) of such section 310.

(e) ENFORCEMENT.—The Secretaries shall enforce a moratorium declared under section 108(c)(2) and emergency regulations in effect under section 110(c)(1). The Secretaries may, by agreeement, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a constituent coastal state in carrying out that enforcement.

SEC. 110. EMERGENCY ACTION.

(a) COMMISSION NOTIFICATION.—If a Commission decides that an emergency exists regarding a fishery (whether or not a fishery management plan is in effect for that fishery under this title), the Commission shall immediately notify the Secretaries and submit to the Secretaries information regarding the cause and extent of the emergency, together with its recommendations for action.

(b) SECRETARIAL ACTION.—If the Secretaries receive notification under subsection (a), or otherwise receives information indicating that an emergency may exist regarding a fishery (whether or not a fishery management plan is in effect for that fishery) the Secretaries shall promptly determine, on the basis of best available information, the nature and extent of the emergency and—

(1) shall, if the notification under subsection (a) resulted from a unanimous decision of the voting membership of the Commission, formulate measures (which

may include a moratorium) to be implemented under subsection (c) and enforced in response to the emergency; or

(2) may, if other than a unanimous Commission vote is involved, formulate measures (which may include a moratorium) to be implemented under subsection (c) and enforced in response to the emergency.

(c) IMPLEMENTATION OF EMERGENCY MEASURES.—(1) The measures formulated under subsection (b) shall, whether or not a fishery management plan is in effect for the fishery, be considered as emergency regulations adopted by the Secretaries and take effect immediately.

(2) For purposes of section 109(c), any violation of an emergency regulation that takes effect under paragraph (1)(B) shall be treated as an unlawful act prohibited under section 109(b).

(d) DURATION OF EMERGENCY MEASURES.—An emergency measure that takes effect under subsection (c)(1) shall remain in effect until an approved fishery management plan is formulated and implemented by each constituent coastal State, or for not more than one year, unless renewed by the Secretaries.

SEC. 111. FINANCIAL ASSISTANCE.

The Secretaries may make grants to each Commission for either or both of the following purposes:

(1) Use by the Commission for carrying out its functions under this title.

(2) Apportionment by it among the constituent coastal States for use by them in preparing fishery management plans under section 106 in accordance with the priority of preparation specified in the list promulgated under section 104(b).

SEC. 112. ATLANTIC STRIPED BASS FISHERY.

(a) MORATORIUM.—On the date of enactment of this Act a moratorium shall be deemed to have been declared by the Secretaries under section 108(c)(2)(A) with respect to the Atlantic striped bass fishery within the coastal waters of the United States Atlantic coast and all provisions of section 109 shall apply with respect to such moratorium; except that the moratorium period shall be determined under subsection (e) of this section.

(b) NOTICE.—Not later than thirty days after the date of enactment of this Act the Secretaries shall publish in the Federal Register a notice and explanation of the moratorium imposed by this section for striped bass in the coastal waters of the United States Atlantic coast.

(c) ENFORCEMENT.—The Secretaries shall enforce the moratorium imposed by this section and may enter into cooperative agreements to utilize the personnel, services, equipment, and facilities of the United States Coast Guard or the

States, on a reimbursable basis or otherwise, to assist such enforcement.

(d) ACTION BY THE COMMISSION.—(1) The Atlantic States Marine Fisheries Commission shall proceed with the development of a fishery management plan for striped bass as described under sections 105 and 106.

(2) The Atlantic States Marine Fisheries Commission shall assist the Secretaries and States in monitoring the effectiveness of the moratorium imposed by this section.

(e) TERMINATION AND EXTENSION OF MORATORIUM PERIOD.—The Secretaries may terminate, on a State-by-State basis, the moratorium imposed by this section, or portions thereof, upon implementation of an approved fishery management plan for striped bass as described under sections 105 and 106.

TITLE II—AMENDMENTS TO OTHER LAWS AFFECTING FISHERIES

SEC. 201. COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964.

(a) Section 4 of the Commercial Fisheries Research and Development Act (16 U.S.C. 779b) is amended as follows:

(1) by amending subsection (a)—

(A) by striking out "There" and inserting in lieu thereof "Except as provided in paragraph (4), there",

(B) by striking out "and" at the end of paragraph (2), and

(C) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) $5,000,000 for fiscal year 1984, and

"(4) $7,000,000 for each of fiscal years 1985, 1986, and 1987, of which not to exceed $2,000,000 for each of such fiscal years (A) are for the making of grants under section 111 of the Migratory Fish Conservation Act with respect to fishery management plans for coastal migratory species other than anadromous species, and (B) are not subject to apportionment as provided for under this Act."; and

(2) by striking out subsection (c).

(b) Section 5 of the Commercial Fisheries Research and Development Act (16 U.S.C. 779c) is amended by inserting "(other than funds for the making of grants under section 111 of the Migratory Fish Conservation Act)" in the first sentence of subsection (A) after "title".

(c) Section 6 of the Commercial Fisheries Research and Development Act (16 U.S.C. 779d) is amended—

(1) by inserting "or an interstate commission" in the first sentence of subsection (b)(1) after "agency";

(2) by inserting "(1)" after subsection "(b)";

(3) by inserting "or interstate commission" in the first sentence of subsection (b)(1) after "agency"; and

(4) by adding after subsection (b)(1) the following: "(b)(2) In the case of any State that has implemented a fishery management plan under the Coastal Migratory Fish Conservation Act for a commercial fishery that is not anadromous, the Federal share payment for any project (related to that plan) that is approved by the Secretary under subsection (a) is 90 percent."; and

(5) by amending subsection (c) by striking out "State." in the second sentence and inserting in lieu thereof the following: "State; or to the official or depository: designated by the interstate commission if the State agency specifies that payment is to be made to the interstate commission. Any payment made to an interstate commission shall be charged against the apportionment of the State concerned.".

(d) Section 7 of the Commercial Fisheries Research and Development Act is amended by inserting "or the interstate commission" in the first sentence of subsection (a) after "State agency".

SEC. 202. ANADROMOUS FISH CONSERVATION ACT.

The Anadromous Fish Conservation Act (16 U.S.C. 757a–757g) is amended as follows: